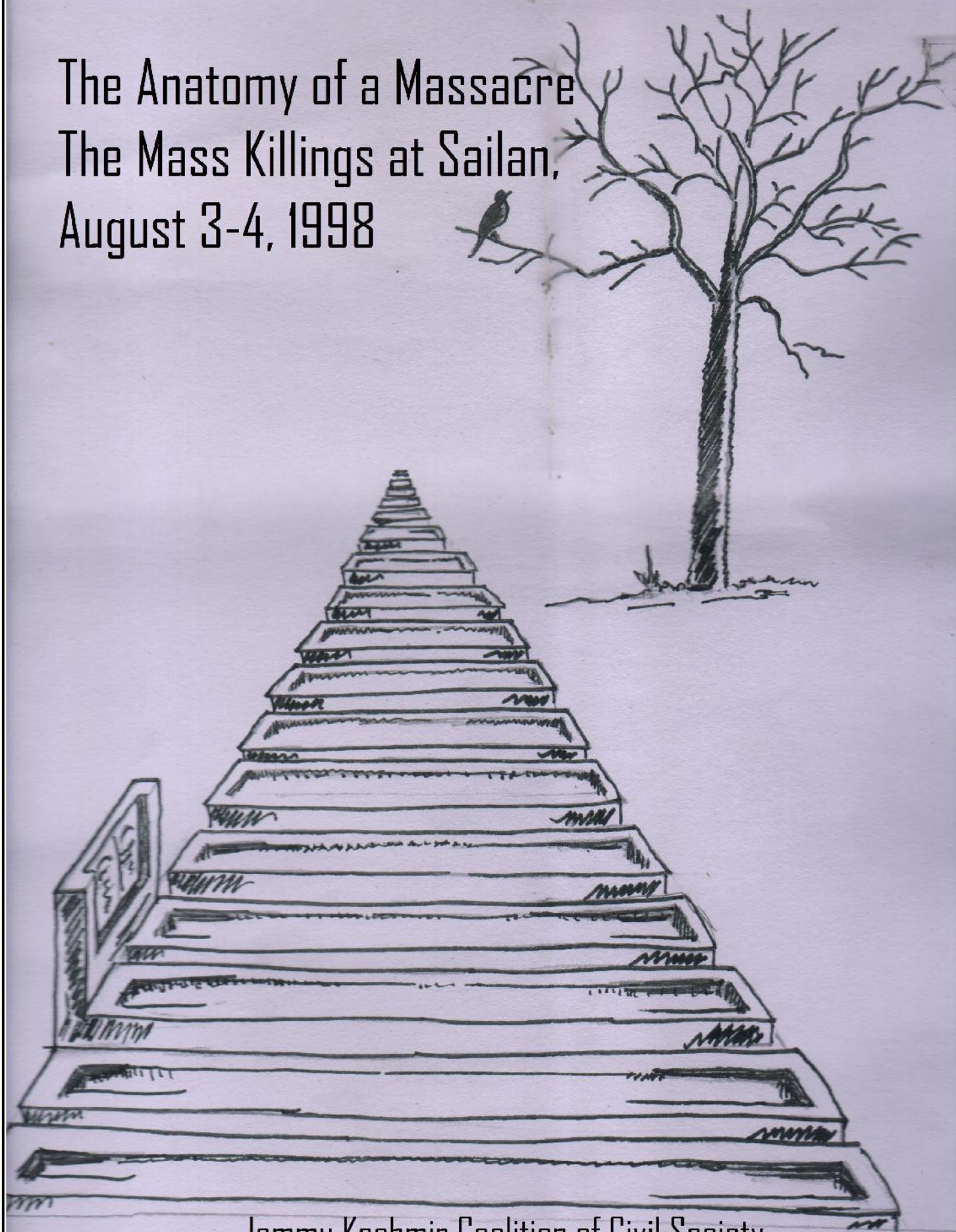


The Anatomy of a Massacre

The Mass Killings at Sialan, August 3-4, 1998



Jammu Kashmir Coalition of Civil Society,
August 2014

**The Anatomy of a Massacre
The Mass Killings at Sailan,
August 3-4, 1998**

**Written and Researched by Shrimoyee Nandini Ghosh with Support from
Survivors of the Sailan Massacre**

August 2014

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The Mass Killings at Sailan

Introduction

On the night of 3–4 August 1998, 19 people, including 11 children ranging in age from about 4 years to 15 years, and 5 women (including one woman in an advanced stage of pregnancy) were shot to death at point blank range in their homes in Sailan, in the Surankote Tehsil, of the ‘border district’ of Poonch in Jammu Region of Jammu and Kashmir.¹ A total of thirteen females and six male members of three closely related families were killed. Their bodies were thereafter horribly dismembered and in one case almost decapitated with axes and sharp instruments. In official accounts, such as the First Information Report, (FIR) and Right to Information (RTI) responses the crimes of that night are attributed to collateral damage in an ‘encounter’ with/ or an attack by ‘foreign militants’.² In certain accounts, written from a national security perspective, the crime is attributed to ‘intra- militant’ and intra community, ethnic rivalries ‘natural’ to the region.³ The specifics of what happened that night, who did it, to whom, and why, and with what consequences, are lost in the languages of ‘cross border terrorism’, ‘encounters’⁴ and ‘counter insurgency measures’, which plot events into neat and ahistorical nationalist or communal retellings, removed from the complex and violent entanglements of everyday life in a highly militarized frontier zone.

The State Human Rights Commission (SHRC) decision on the case, rendered after a *suo moto* ‘spot inquiry’ in September 1998, hints at some of the terrors of the dense militarisation, and the intense and unnameable pressures it exerts to conform to official narratives, even on state officials themselves.⁵ Even as the decision recognises that a gruesome mass crime took place and rejects the ‘foreign militants’ theory, it fails to name the local perpetrators and merely holds certain unnamed ‘SPOs’ (Special Police Officers, that is civilians recruited and armed by the Police Force, often attached to an Army establishment on an ad hoc basis,) responsible, while also suggesting the possible

¹ See annexure 1, for a family tree, showing those killed.

² FIR no 122 /1998, dated 4 August 1998, Surankote Police Station. Letter No CIV/RTI 37-1/2012/1558 -60 dated 20 October 2012 from Jammu and Kashmir Police, on file with Jammu Kashmir Coalition of Civil Society (JKCCS)

³ See for an example, Luv Puri. (2008) *Militancy in Jammu and Kashmir: The Uncovered Face*. Promila & Co.: New Delhi at 49. Puri also attributes the mass killing killing of 14 members of a family in the neighbouring hamlet of Mora-Bichhaii, a year after the Sailan massacre, attributed by locals and witnesses to Special Operations Group (Police) to ‘another case of local rivalry [...] between Paharis and Gujjars.’

⁴ In an article on the phenomenon of ‘fake encounters’ anthropologist Haley Duschinski, states: ‘The terms ‘fake encounters,’ ‘false encounters,’ and ‘encounter killings’ are widely used in their English forms throughout Jammu and Kashmir, and refer to the staged gun battles that constitute a distinctive cultural practice of state violence in the region’ H. Duschinski, (2010). Reproducing Regimes Of Impunity: Fake encounters and the informalization of everyday violence in Kashmir Valley. *Cultural Studies*, 24(1), 110-132. In the context of Jammu and Kashmiri such ‘encounters’ are almost invariably cast as being between armed forces, and foreign Pakistani ‘militants’ even where they are part of the local insurgents, or unarmed civilians. The bodies of young men killed are often described as belonging to unidentified, unnamed ‘foreign’ militants, and are buried in mass or unmarked graves scattered through out Jammu and Kashmir. There is documented evidence in many cases that these men, were not militants but civilians including in the recent Supreme Court case (2012) on the Patribal massacre, where unarmed Kashmiri civilians were killed and described as ‘Pakistani militants’, but were shown to be local shepherds and shopkeepers through investigations by the Central Bureau of Investigations, DNA and other evidence. The Sailan massacre differs from the usual ‘encounter’ narrative in that it is acknowledged that the bodies are of civilians but the killings are attributed to ‘foreign militants’ in the FIR. In the FIR there is no mention of any non civilian being killed. Nonetheless in official RTI responses, the massacre is tabulated as an ‘encounter’ showing that one unidentified foreign militant was killed in the ‘encounter’ that took place purportedly between ‘army/ police’ and unknown militants, (along with 19 civilians),

⁵ SHRC order dated 21 October 1998, SHRC PS / 1127

involvement of unnamed ‘security forces’ (including army personnel, from a ‘picket’ located ‘barely 200 mts away’ and from the camp at Bafliaz, ‘700 metres away’) who cannot, will not, or perhaps must not be named or identified, and who refused to participate in the inquiry proceedings ‘for some reason’. While recording in its ‘fact finding observations’ based on ‘orally expressed’ views that ‘the killing [...] could not be an independent act of planning, short of support by the force’, the decision remains strangely laconic when it comes to the actual identification of the perpetrators, of whom at least the four SPOs were all well –known in the village, (and whose continuing threat to the lives of survivors and other locals it acknowledges by recommending police security be provided to them). Instead it cites the lack of ‘direct evidence’, and makes mysteriously veiled hints at generalised suspicions, insecurities and ‘orally expressed’ fears and misgivings about speaking unequivocally, reportedly on the part of the witnesses, but it seems also the Chairperson himself, who passes on the responsibility of naming the perpetrators to the Police and the Army Unified Command, despite repeated mentions by witnesses.⁶ The SHRC final order specifically states that while many more witnesses initially seemed eager to testify, only eight finally did. The reason given for not coming forward was ‘orally expressed fear of the army who are in control of the area and three SPO’s associates of slain SPO Zakir Hussain’. But it fails to mention crucial facts that witnesses have consistently averred as to the identity of the perpetrators, including a Major known locally as ‘Goora’ [Gaurav] from the nearby army camp at Bafliaz.⁷ The SHRC orders remained largely unavailable to the wider public, unreported in the media, and inaccessible to the families of the victims of the massacre until 2011, in part because of the geographical isolation of Surankote from Srinagar, the summer capital, where the State Human Rights Commission, and most media establishments (or at least those interested a story about Indian Army atrocities) are located.

The secrecy and obfuscation is even more palpable in the police investigative documents. While the FIR (First Information Report) was registered in the name of unidentified ‘foreign militants’ despite eye witness testimony to the contrary, and the case s closed on three separate occasions, as the perpetrators were ‘untraced’. In December 2011, the State of Jammu and Kashmir submitted before the High Court at Srinagar that the police case file itself could not be found either at the police station or the court registry, and that there was no information on whether the case closure report (*Ikhtitami*) was ever confirmed by a court, as mandated by law.⁸ This appears to be an act of blatant misrepresentation as the supposedly untraceable *Ikhtitami* was subsequently acquired by Jammu Kashmir Coalition of Civil Society (JKCCS).⁹ The *Ikhtitami* states in *urdu*, that the police was seeking closure of the case, after five months of investigations, (including taking witness statements, photographs of the crime scene etc.) as despite their best efforts, no clues to the identity of the perpetrators could be found. In September 2012, the Police made further submission in a status report before the High Court claiming that the police investigative documents, bizarrely consisted only of a reconstructed, fragmentary (and rather aptly named) ‘shadow file’ since the original contents were apparently destroyed in a fire, while in the custody of police head quarters in the next Tehsil of Mendhar in 2010.¹⁰ Finally subsequent to the intervention of the High Court, in

⁶ SHRC order dated 21 October 1998, SHRC PS / 1127

⁷ SHRC order dated 21 October 1998, SHRC PS / 1127

⁸ J & K High Court Order dated 2 December 2011, in OWP 1572/ 2011

⁹ On file with Jammu Kashmir Coalition of Civil Society (JKCCS)

¹⁰ J & K High Court Order dated 21 November 2012, in OWP 1572/ 2011. The destruction of police case files and their replacement by fragmentary ‘shadow files’ seems suspiciously common in cases involving human rights abuses by armed forces in Jammu and Kashmir. In a high profile case involving the staged

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November 2012, the investigations were handed over to the Central Bureau of Investigations (CBI) who instituted a fresh investigation. Surprisingly, they chose to base their investigations on a fresh FIR, identical to the old FIR registered in 1998, again naming unidentified 'foreign militants' as the suspects, without taking into account the repeated averments of the survivors in the High Court, which named seven specific persons including persons from the Police men, Army personnel and SPOs.¹¹ It is as if the identity of killers of Sailan are a public secret, everyone knows exactly who they are, some of them still roam freely in the area, (namely Head Constable Mohammad Younis [SPO in 1998], Selection Grade Constable Mohammad Rafiq Gujjar [SPO in 1998], and presently posted with the 16 Rashtriya Rifles, Draba Camp, Assistant Sub-Inspector Maqsood Ahmad Khan [SPO in 1998], and Selection Grade Constable Mohammad Akbar [SPO in 1998]) having been promoted from being SPOs, to regularised members of the constabulary, and even officers. But they cannot be named, even by an official inquiry or investigation.

This present account attempts to remember the dismembered and silenced history of the Sailan Massacre. It is based on extensive conversations with family members and eye witnesses, interviews with local residents and political activists, retired officials and lawyers involved in the case, and the perusal of police, court and RTI documents. A two day visit was made to Sailan, and Surankote, in end June 2014 during which the researcher visited the homesteads where the massacres took place, the Surankote Tehsil (Revenue and Judicial) Complex where the bodies were placed after the murders and where family members and other residents of Sailan sought refuge for almost three months, and the graveyard where the bodies were buried with great difficulty, after a night long vigil by family members, to prevent their hurried burial by officials. Further conversations were held with family members in the office of Jammu and Kashmir Coalition of Civil Society (JKCCS) in Srinagar.

The military occupation of Jammu and Kashmir, by the Indian state is not enacted in abstraction. It is sustained by its ability to insinuate itself into the social fabric, economic life and cultures of violence in a particular community.¹² It works not only through the armed control over physical territory, but through the terrorising of minds and bodies by enacting spectacular displays of necrophilic power and violence. The events leading up to, and following from the Sailan Massacre allow us to see, in vivid detail the intricate and

kidnapping of five foreign nationals, the Inspector General of Police (Crime Branch) claimed in his submission dated 13 August 2012, that the master file relating to the investigations had been similarly destroyed in a fire on September 11, 2010, during 'agitations', even though the file investigative journalists had been able to access the files earlier. For another example, see *Masooda Parveen v Union of India* (2007) 4 SCC 548, in which investigative documents were again purportedly destroyed or lost. The CBI which is presently 'investigating' the Sailan case, appears to have more than a hundred numbered photographs taken at the crime scene, showing the dismembered bodies lying in a pile, in the state they were discovered. The submission of the police in the court, that the entire file was destroyed therefore appears to be particularly doubtful, especially in light of the fact that *Iktitami* (closure report) exists. The deliberate destruction or manipulation of police records is a criminal offence.

¹¹ FIR no. RCDST2013S0023, Police Station CBI, STF, New Delhi, dated 0 September 2013, under sections u/s 122 [Collecting arms etc. with intention of waging war against India], 121 [Waging/attempting or abetting the waging of war against India], 302 [Murder], 449 [House-trespass to commit offence punishable with death] Ranbir Penal Code, 1989 and section 3 EAO [Enemy Alien Ordinance]

¹² For an elaboration of a similar argument in the context of Ladakh, the third geographical and administrative region (other than Jammu and the Kashmir valley) which constitutes Jammu and Kashmir, see Bhan, M. (2013). *Counterinsurgency, Democracy, and the Politics of Identity in India: From Warfare to Welfare?*. Routledge.

overwhelming ways in which the military ‘counter insurgency’ apparatus penetrates the lives of people who live at its mercy, especially at the margins of the state. They expose the nitty-gritty realities of how the violent and total militarisation of lives and livelihoods renders the lines between civilian and military operatives and institutions (army, police, and Indian funded and armed ‘counter insurgency’ operatives, informers and ‘sources’) simultaneously non-existent, and rigidly impermeable, and the mechanisms by which war crimes by the Indian state against unarmed women, children and other civilians can be officially constructed as ‘intra militant’ rivalries, or blamed on ‘foreign militants’, for which the Indian state bears no responsibility, even in the face of tremendous public, local knowledge and irrefutable legal evidence to the contrary. The continuing and courageous struggle for truth and justice, by the surviving members of the three families effectively wiped out by the Sailan massacre exposes how impunity and silence is effectuated, as active state policy within specific contexts and situations. This report is part of the struggle of all victims of human rights violations in Jammu and Kashmir, to articulate their demands for truth and justice, to speak of what they have been through in their own words, when the very language to speak of the truth has been rendered anti national, and therefore unspeakable. It commemorates the lives lost in the massacre at Sailan, and is dedicated to them, on the sixteenth anniversary of their untimely deaths.

Chapter 1 Locating the Sailan Massacre



Image 1: A mountain Pass on the Mughal Road winds its ways through the Pir Panjal Range

SAILAN, SURANKOTE, POONCH:

Sailan is located at the truncated southern end of the historic Mughal Road, that once connected the Kashmir valley and its capital Srinagar to Rawalpindi, across the Pir Panjal range and southwards to Lahore and Delhi before the Partition of the sub continent. The Mughal Road ends barely 3 kilometres south of Sailan, at Bafliaz, branching into two local roads – one carrying on to the Tehsil headquarters of Surankote, and the other to the neighbouring Rajouri District. In late summer, almost the only season when the road is not closed due to snow, avalanche or rock falls, the journey is one of crossing high green hills, spectacular snow covered mountain passes, fording fast flowing bridge less streams, views of the ruins of sixteenth century *sarais*, and the green penants of living shrines. Road signs tell you to beware of ‘shooting stones’ and rocks, (the evidence of fallen and dynamited mountainside, lines the road), and occasionally and perhaps even more ominously that “This Road is closed to Civilian Traffic’ the enduring residue from the long years when it remained inaccessible. The Mughal Road, like much development in Jammu and Kashmir, is a politically fraught ‘national security’ question. As one crosses over the snow capped peaks, into the district of Poonch, the terrain transforms into steep terraced hillsides, dotted with farms, homes and small and large military camps, and outposts.



Image 2: The Terrain consists of Homesteads and terraced farms built into the steep hill sides, of the Pir Panjal Mountains alongside the Mughal Road, and Suran River

The forced abandonment of the Mughal Road, and its non development due to the ‘security’ considerations, of being close to the ‘Line of Control’ (LOC) and historically connecting the valley of Kashmir to cities in undivided Punjab, (part of which lies in erstwhile Pakistan), led to the cutting off of the Poonch district, once a fairly important and prosperous provincial centre, from Srinagar, its geographically nearest city on the Indian side in the new post partition geography in October 1947. The closure of the Mughal road, the lifeline of the region, was emblematic of the general and deliberate state policy of isolation of the district, for its historical, social, ethnic, political and economic connections to Pakistan Administered Kashmir (Azad Kashmir) and undivided Punjab.¹³ In 1998, the journey to Srinagar, that today takes 4 hours, via the Mughal Road

¹³ Zaffar Choudhary provides several telling examples of the extreme marginalization of Muslims from Jammu generally, and Poonch District particularly, in the Indian polity, including in the spheres of political representation, economic development, road connectivity, education and health indicators. He details the history of the district from its pre 1947 status, as an autonomous province in the Dogra ruled princely state of Jammu and Kashmir; the partition of Jammu province and massacres of its Muslim population, as well as the division of families after the demarcation of the cease fire line in October 1947; the porous and ‘open borders’ between the region and Azad Kashmir, until the war with Pakistan in 1965; the devastation and huge migrations during the 1965 war due to widespread atrocities and documented mass killings of

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(which was finally re opened to civilian traffic about two years ago) had to be made via Jammu, and took over 24 hours. Visiting Srinagar, in those days, a local of Sailan jokingly told me, was like visiting a 'foreign land', more difficult than going '*paar*' (across the border). Road connectivity within the district of Poonch, remains extremely poor, with many villages, a hilly day long climb from the arterial road.¹⁴ Poonchis, pride themselves on their history as an autonomous region, even under Dogra Rule when Jammu and Kashmir was a princely state prior to its contested accession to India; their rising in Rebellion against the Dogra State in 1947; and their role in the liberation of 'Azad Kashmir'. They resent their decline under the present political dispensation.¹⁵ They attribute their present day marginalisation, to the communalisation of politics in the Jammu region, (Poonch with 91.92 % Muslims according to 2001 census figures has the highest percentage of Muslims in the otherwise Hindu Majority region); the communal trifurcation of Jammu and Kashmir into 'Hindu' Jammu, 'Muslim' Kashmir and 'Buddhist' Ladakh and their invisibility within this political imaginary; their ethnic and linguistic difference from the Muslims of the Kashmir valley (a majority in Poonch self identify as 'Khans' belonging to Punjabi rather than Kashmiri ethnicity, and speak languages affiliated to Punjabi) and to their resistance and outright rebellion first against Dogra, and then Indian oppression and occupation, the latter in the 1965 war with Pakistan, when large swathes of Poonch was under the administration of Pakistani *razaakars* (literally volunteers).¹⁶

The active phase of militant uprising against Indian occupation in Poonch (and in the Jammu region generally), was inaugurated by the bombing of an Indian Republic Day function in Surankote Tehsil in Poonch district in January of 1990, though training activities, supply routes, and militant movements had been in existence for several months prior. The then defunct Mughal Road served as a mountainous, pedestrian thoroughfare for local militants from the border Tehsils of Mendhar and Surankote crossing the LOC, and returning to Indian Occupied Jammu and Kashmir.¹⁷ Armed insurgency reached its peak with the setting up of the 'Pir Panjal Regiment' of the *Hizb ul Mujahideen*, in around 1996. Security experts have described Surankote Tehsil, as a 'liberated zone' in the late nineties, before the brutal onset of the largest counter insurgency operation in Jammu and Kashmir *Sarp Vinash* (Snake Destruction) in 2003, which 'sanitized' the region, carried out by armed local Gujjars, (nomadic pastoralists) with overt army and police backing.¹⁸ But counter insurgency in Surankote has a longer and largely undocumented history. In August 1990, Surankote Tehsil saw the first

civilians by Indian forces against the Poonchi population which was seen as providing support to Pakistani 'razaakars' (volunteers / 'infiltrators'), which significantly altered the demographics of the district as refugees fled to Azad Kashmir. The population of Poonch District (Now Poonch and Rajouri Districts) fell by 17 % due to migrations in the period of 1961- 1971, according to Census figures. See generally, Zafar Choudhary, (2012) *Locating Jammu Muslims in Kashmir Conflict*. Centre For Dialogue and Reconciliation: New Delhi. See also, Luv Puri. (2008) *Militancy in Jammu and Kashmir: The Uncovered Face*. Promila & Co.: New Delhi at 47 for 'social, economic and political alienation' in Poonch as causative factor for the rise of militancy.

¹⁴ For a socio – economic profile of Poonch, Rajouri and Doda districts, which make up the Chenab Valley and Pir Panjal districts of Jammu, including statistics on road connectivity, compared to the rest of Jammu and Kashmir see Choudhary, 2012: 70-77

¹⁵ See Christopher Snedden, (2013) *Kashmir The Unwritten History*. Harper Collins: Noida at 27-32, 41-57, for a history of the pre- 1947 Poonchi identity, and the Poonch Rebellion of 1947, which precipitated the events leading to the war with Pakistan in 1947, and the demarcation of the 'cease fire line' (now Line of Control), the disputed boundary between India and Azad Kashmir (Pakistan Administered Kashmir)

¹⁶ Choudhary, 2012:60-63

¹⁷ Choudhary, 2012: 68

¹⁸ Puri, 2008: 42-43, 92

‘surrender’ of militants, and their conversion to ‘renegades’, armed ‘pro government’ militias, a crucial component of the Indian state’s counter insurgency strategy, which it later practised to devastating effect through out Jammu and Kashmir.¹⁹ From the 1990s, the Indian state aggressively followed a policy of arming religious and ethnic minorities, including Hindus, Sikhs and Gujjars (nomadic pastoralists) by setting up vigilante groups (Village Defence Committees) in the Jammu region, selectively empowering and arming them against the predominantly Muslim militants, and incorporating these communities into networks of economic dependency, military information and employment.²⁰ When such groups and individuals were targeted by militants, it deepened and created new fault lines in what was already an economically and politically marginalised, and highly militarised region in the aftermath of the partition, and the 1965 war with Pakistan.²¹ The intensive militarisation of Poonch, and indeed all the Muslim majority districts of Jammu, and the widespread human rights violations in the area since 1990, have remained largely uncommented upon in comparison to those in the Kashmir valley. Glimpses of the extent of the violence inflicted on Muslims in the region, by the Indian state and its militarised local operatives, however can be gleaned from the existence of 3844 documented mass graves in the districts of Poonch and Rajouri, of which 2717 are in Poonch district and over a 1000 are in Surankote Tehsil alone.²² Further, 712 official ‘encounters’ were reported in the police stations of Surankote and Poonch (town) alone, from 1991 to date, mostly concentrated around the period 1996- 2003, and overwhelmingly involving the deaths of multiple ‘unidentified’ but nonetheless ‘foreign’ militants, including the killings at Sailan, which are tabulated as one such encounter in the official statistics.²³

Sailan village is located about 14 kms South from the Tehsil town of Surankote, across the river Suran, which winds parallel to the Mughal Road in this area. It is connected to Surankote town via the narrow Bafliaz bridge. Bafliaz town lies on the other side of the river, and is about 3 kms from Sailan. An army encampment, which in 1998, stationed a unit of the 9 Paratroopers, an elite commando unit of the Indian Army, lies at the base of the bridge, on the other side of the rocky river bank, in the Bafliaz Higher Secondary School compound. An observation out post of the camp, is located atop a rocky outcrop, on the Sailan side of the river, close to the next hillside hamlet of Bonikhet.

¹⁹ Choudhary: 68. For more on the militancy and Indian counter insurgency strategy in Poonch and Rajouri, written by a former Special Commissioner of the two Districts, see S.S. Boleria, (2000) *Militancy in Rajouri and Poonch* available at <[http:// www.satp.org/satporgtp/publication/faultlines/volume 1/Fault-1Boleriatext.htm](http://www.satp.org/satporgtp/publication/faultlines/volume%201/Fault-1Boleriatext.htm)> For the role of *Ikhwan*s in widespread human rights abuses in Jammu and Kashmir see, Human Rights Watch. 1996. *India’s Secret Army in Kashmir*. Human Rights Watch: New York.

²⁰ Luv Puri, 2008: 36, 55. See also JKCCS, Press Statement dated 16 August 2013, available at <<http://www.kashmirdispatch.com/headlines/160817294-text-of-jkccs-report-on-vdc-violence.htm>>.

The RTI documents with data on the district wise compositions of VDCs are on file with JKCCS.

²¹ For an overview of the political and economic status of Jammu Muslims, see Zafar Chaudhary, 2012. For a district wise understanding of the militant struggle in Jammu region, told from an Indian perspective see Puri, 2008. For an account of the ‘counter insurgency’ strategies employed see Boleria,

²² Complaint dated 16 Sept 2011, filed before the State Human Rights Commission, by International Peoples’ Tribunal on Human Rights Violations and Justice in Indian Administered Jammu and Kashmir (IPTK) – Association of Parents’ of Disappeared Persons (APDP)

²³ Right to Information Responses from Police Stations of Surankote and Poonch, relating to number of encounters, parties involved, number of civilian, militant and army/police casualties, on file with Jammu Kashmir Coalition of Civil Society.

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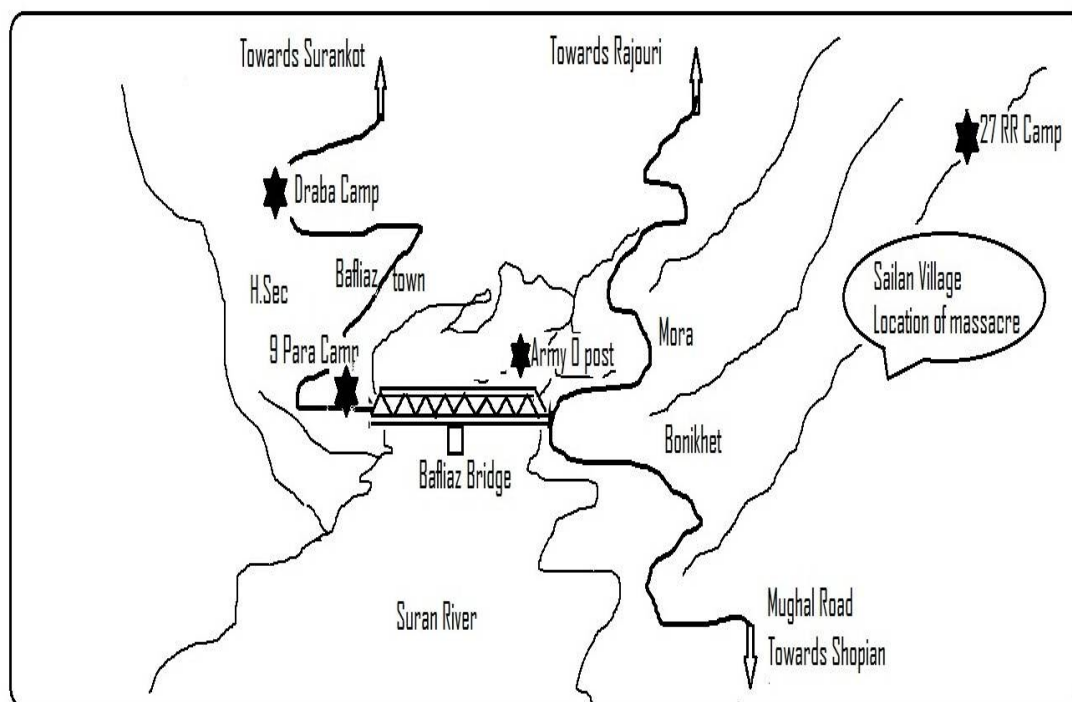


Image 3: The Location of Sailan

The Mughal Road forms the main market street of 'Lower Sailan', the rest of which, like most villages en route, consists of homesteads, grazing lands and terraced farms, scattered vertically across the particularly steep hillsides, that border it. At present Sailan consists of about 600-700 such scattered homesteads, and about twenty shops and small establishments on the main street. In 1998, the State Human Right Commission reported the population of Sailan as 1888 persons.²⁴ The homesteads are connected to the Mughal Road, by rocky pathways and stairs cut into the mountains, and can be anything from a half an hour to half a day's climb to the main road. The villagers of Sailan plan to boycott the Jammu and Kashmir elections, scheduled at the end of the year, unless they say a macademized road is built to the hillside hamlets, a long standing demand after years of deaths and medical emergencies exacerbated by the non existent connectivity of their homes. The population of Sailan consists mainly of ethnic Kashmiris (residing in Sailan for several generations) and Gujjar pastoralists.

²⁴ SHRC order dated 21 October 1998, SHRC PS / 1127



Image 4: The Three Households. Clockwise From Left to Right. Hassan Mohammad's son Abdul Ahad stands outside his home (where the killings occurred), Lassa Sheikh's House and Ahmed Din's House

The three households, headed by the late Lassa Sheikh, and his brother the late Hassan Mohammad Sheikh and his brother in law (wife's brother) the late Ahmad Din Sheikh, brutalised by the events of the night of 3- 4 August 1998, live in homesteads located in two tiers, on the periphery of Upper Sailan, close to *nallah* (mountain stream) that divides it from the neighbouring village of Bonikhet. On the upper tier are the houses of Hassan Mohmmad (where the killings took place), and Lasssa Sheikh, and the lower tier the house of Ahmad Din. About a kilometre downhill on the river bank, accessible by a mountain path is an observation post of the Army Camp. At the peak of the hillside, about 200 metres higher than the compound, stands a telecommunications tower, and the shadowy outlines of another Army camp, obscured by the thick foliage.

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Image 5,6: The Army Observation Post, downhill in the river bank near Bafliaz Bridge. Bonikhet is visible in the Right Background of the First Image.



Image 7: Telecommunications Tower and Army Camp at the top of the hill on which the three homes stand

Today, along with the three homesteads which share their tiered courtyard-roofs (the roof of the lower forming part of the court yard of the upper houses) there is also a government primary school room built about five years ago, next door to Ahmad Din's house. The houses are accessible from two rocky pathways, which wind around the hillside, one which leaves the Sailan market at the Northern end, and the other which rises from close to the Bafliaz Bridge, alongside the *nallah*. The homes are located around

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the curve of the mountain from Lower Sailan, overlooking mountainsides and neighbouring hills of Bonikhet and Mora villages, and the wide curve in the Mughal road near Bafliaz Bridge, rather than the main street of Lower Sailan. They are a steep hour's climb (about 1-1.5 km) from the main road, taking the route from the market, and the same distance from the route which rises near the Bafliaz Bridge, and follows the *nallah*. This was the route taken by the forces from the 9 Paratroopers of the Indian army, who participated in the attack on the three households, and who were seeing going down this path, by several eye witnesses. Thereafter vehicles were seen and heard on the Mughal Road, to the Bafliaz Camp.



Image 8: Path taken by 9 Paratroopers on the Night of the Massacre, rising towards Upper Sailan from the Mughal Road near Bafliaz Bridge. Zakir's dead body, (see below) lay on the left side just up the road, from this point.

The maize grows about 6- 8 feet high in the terraced fields, by late summer, and was already waist high when the researcher visited the houses in end June. En route to the compound which located on an upper ridge, near the top of the hill, one encounters several other similarly constructed houses, belonging to both Gujjars and Kashmiris cut into the hill side, so that their flat roofs, form convenient and spectacular open courtyards, on which to rest from the unforgiving climb, and observe the traffic on the winding road.

IMTIYAZ AND ZAKIR

The deaths that occurred that night in Sailan are tangled with the lives (and deaths) of two young men, Imitiyaz, the son of Lassa Sheikh, and Zakir the son of Faisal Gujjar, a man from the neighbouring village hillside of Mora, located about 1.5 kms from Sailan. Their

tragic and violent biographies, illustrate how deeply atrocities, such as the Sailan massacre, which seem aberrant to all norms of social life, are actually embedded in local histories, and social relationships, in a context of pervasive militarisation. Lassa Sheikh, Imtiyaz's father was the first man shot at in the massacre. The 19 victims of the Sailan massacre were all members of Imtiyaz's joint family-- his parents, siblings, uncles, aunts and first cousins. The following account is compiled from conversations with local residents and eye witnesses to the scene, and from accounts in the SHRC order concerning the massacres.²⁵



Image 9: The only surviving photograph of Imtiyaz Sheikh

Imtiyaz, was among the first wave of young Kashmiri men to cross the 'border' into Azad Kashmir from Sailan and its neighbouring villages, soon after the militancy intensified in the region, in 1996. He was then a student of the ninth standard, about fifteen or sixteen years old. He 'ran away' without informing his family, along with a group of his friends. Having seen the violence visited upon such young men (and their families) from the valley, and given the longer history of violence visited upon locals, by Indian troops during the 1965 war, his family was afraid, even furious at him. When he returned from his 'training' a few months later, his father treated it as an act of dangerous but youthful delinquency and handed him over to the local police authorities hoping they would 'teach him a lesson'. He was, as was common in 'militancy' related cases, handed over to military authorities, then released after several days of torturous interrogation. Thereafter, he returned home but was constantly under surveillance, and was 'picked up'

²⁵ SHRC order dated 21 October 1998, SHRC PS / 1127

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several times for further interrogation, especially whenever there were any reports of militant activity or actions. His family members too were subject to constant raids and harassment by local armed forces and their ‘sources’ and informers in the area. A few months later, Imtiyaz was re-arrested on weapon possession charges. According to local oral history bordering on legend, he ran away from police custody while being transported to attend court, a few weeks later, while still hand cuffed, and took refuge in the hilly countryside. Thereafter, locals from Sailan say he became a ‘real *mujahid*’ (as opposed to a school boy) operating from the hills and forests, as a rising lieutenant of the local wing of the Hizbul Mujahideen. He was killed in an ‘encounter’ with the army, in Khari Marg, in the Pir Panjal hills, along with three other comrades about a year after the massacre of his family. His body is buried in the martyr’s graveyard at Behramgalla, a few kilometres away.

Zakir Hussain from the village of Mora, across the *nallah* from Sailan, was a few years older than Imtiyaz. At a fairly young age began to work as a *coolie* (a porter for carrying loads up the steep hill sides) with the Army Camp of the 9 Paratroopers at Bafliaz, at around the same time, as Imtiyaz was crossing the border, according to Sailan locals. He soon grew in stature to become the Army’s main ‘source’ in the area. Some accounts have stated that Zakir had received ‘militant training’ and thereafter begun to work as an ‘army militant’ (renegade),²⁶ but locals say that he was never an active militant, but was ‘planted’ to associate with certain members of armed groups in order to infiltrate and inform on them. In fact they say, prior to his killing, he was ‘abducted’ by local militants on two occasions, and warned to stop providing information to the Army. He was let go, because of his family circumstances—he had six or seven sisters, most of them unmarried. It is well known that ethnic and religious minorities, including Gujjars were actively recruited as part of the Counter – Insurgency information and intelligence gathering network, and armed as counter insurgency vigilante groups (Village Defence Committees), and ‘Special Police Officers’ (armed civilians recruited to be counter insurgency operatives) in the period, and it is likely that this was the trajectory that Zakir’s biography followed, rather than of being a surrendered militant. In any event, Zakir, was appointed as a Special Police Officer (SPO) under the direct command of Superintendent of Police (SP, Opns) Sevak Singh of the Special Operations Group (SOG) and attached to the local Army (9 Paratroopers) Camp at Bafliaz, a few months to a year before the massacres. Thereafter he was frequently seen in the company of uniformed men, often donning a uniform himself. He was allowed free access to the local army camps, check posts and police stations. He was always armed with a pistol, two grenades, and a wireless set, which he liked to publically flaunt. He was regularly accompanied by an entourage of three or four other such SPOs or ‘informers’, among them were Mohammad Younis, son of Alaf Din alias ‘Tiger’, and Mohammad Rafiq Gujjar, alias ‘Pathan’, Maqsood Ahmed Khan, and Mohammad Akbar Mallik. The group was a mix of predominantly Gujjar young men, with one ‘Khan’ (Poonchi Muslim of Punjabi ethnicity) and a Kashmiri, all under the command of the SOG, and attached to the Army camp at Bafliaz. This band of men, of which Zakir was the leader, tormented residents and shop keepers in Sailan, Bonikhet, Chandimarh and Bafliaz, demanding goods and services for free, informing on people and having them interrogated or harassed by the army, involving the military and police in local (civilian) disputes, harassing young women and school children, and beating people for crossing their paths in anyway. One resident of Sailan recalled witnessing Zakir pistol whipping and beating an old man wearing a red kerchief, on the street. It was only later, that he learnt that the man was Zakir’s own *chacha*. (paternal uncle). A woman resident,

²⁶ Puri, 2008: 49

now in her thirties recalled how for several months before August 1998, Zakir had terrorised the locality, entering their homes at any time of day or night, carrying guns and grenades. She and many of her friends had stopped attending school because of the abuses and lewd comments they faced from Zakir and his ‘friends’.

ZAKIR’S DEATH:

By the early 1998 the authorities had launched an intensive search operation for Imtiyaz, aided by local networks of information and embedded, armed, state backed counter insurgency operatives such as Zakir and his associates. One family member of Imtiyaz’s who survived the massacre, referred to it as an ‘underground’ rivalry. Young men from Imtiyaz’s family in Upper Sailan, were ‘picked up’ for ‘interrogation’ (a euphemism for torture in the militarised language of Jammu and Kashmir) about his whereabouts, several times. His brother Maqsood, was detained and beaten four or five times, while his cousin Mohammad Shabir, (then aged 18) remembers being interrogated twice by army personnel of the 9 Para. The army personnel were invariably accompanied by local operatives, usually Zakir or one of his associates. The hunt for Imtiyaz had taken on the character of an intensely personal rivalry, not just between the two men, but of the powers and identities they respectively represented. Except, one side consisted of Indian army and its armed operatives, and the other Kashmiri civilians, one of whose family members happened to be a militant.

According to Sailan locals on the morning of 3 August 1998, Zakir and his group were seen stationed at the Behramgala police check post, a kilometre or two North from Sailan village, on the Mughal Road. They were searching for Imtiyaz, pulling passengers out of vehicles, and checking them. Meanwhile, Imtiyaz and his friends were bathing in the Parnai, a small rivulet that flows between Sailan and Behramgala.

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Image 10: The Check post at Behramgala, where Zakir was seen on the morning of 3 August 1998

Learning about this, Zakir and his group headed up the road towards the Bafliaz camp, possibly to inform the Army, in a bus that they commandeered at the check post. Imtiyaz and his group received advance information of Zakir's movements from locals. They, in turn commandeered another local bus, emptying it of all passengers except the driver and bus conductor, and headed towards Sailan. They went through the Sailan village main street, on the look out for Zakir. People in the market were frightened, at the seemingly imminent confrontation and began fleeing to the hillsides. At some distance past Sailan, Zakir asked the driver to turn his bus around, and began travelling towards Sailan, probably having learnt that Imtiyaz was in the village, through on his wireless radio. The two buses were now headed towards each other. As the bus carrying Zakir, pulled around a blind curve in the road, the driver of Imtiyaz's bus, wishing to avoid being caught in cross fire, began blinking his headlights rapidly signalling danger to the approaching driver. Residents of Upper Sailan, who had a clear view of the road from their homes and fields in the hillsides, saw this. Zakir was seated next to the driver, and he jumped off the bus. Just past the village of Sailan, on the curve of the road by the Bafliaz Bridge, near the village of Bonikhet gunfire broke out, as Zakir was seen running towards the Bafliaz camp firing backward at the bus holding his pistol behind his head. The first bullets hit the tyres of the bus carrying Imtiyaz. Imtiyaz was seen firing back in the direction of the gun fire from the moving bus. The bullets hit Zakir, who fell to the ground. Imtiyaz and his group, leapt off the bus, and fired more shots at the body by the side of the road, and into the surrounding hills. They were then seen approaching the body, bending over it and rifling through Zakir's pockets by Hajji Abdul Rashid, who was amongst the bystanders who gathered some distance from the scene, on hearing the shots and seeing the dramatic chase. Imtiyaz and the others quickly disappeared into the surrounding thickly forested hillsides, towards Mora.

Uniformed personnel emerged immediately from the Army Camp across Bafliaz bridge, were informed about episode from personnel at the observation post located within 50-100 metres from the scene, on an observation outpost in the river bank on the Sailan side of the river. They surrounded the body, and began firing and shelling in the direction in which Imtiyaz had fled. They rounded up the bystanders and villagers who were watching the events at a distance, and began beating them indiscriminately, demanding information. They were visibly angry and extremely abusive. A man identified as Major Gaurav, (locally known as Major ‘Goora’) was leading them. In sometime, Zakir’s overwrought and elderly father also arrived. He knelt by the body of his son, and wailed, cursing his fate, and blaming the army for his son’s death, vowing that he would not allow his burial until the death was avenged. Major Gaurav attempted to console him, saying within the hearing of several witnesses, that he would not grieve as much even on the death of his Commanding Officer. Tempers and emotions were running high amongst the armed personnel present, and several mentions of exacting revenge or ‘badla’ were reportedly made. Major Gaurav is specifically remembered as having said that he would ensure that Imtiyaz would pay dearly for this, with the lives of twenty members of his family. The army personnel would not let anyone else near the body, and at around 2 pm were witnessed carrying it themselves towards the camp on a charpoy. Imtiyaz’s bother in law, Mohammad Rafiq, who was present at the gathering recalled:

There were army, police, Special Operations Group (SOG), and civilians in the crowd. It was about 2 pm when I arrived. I saw that they [army personnel] were taking the body away on a charpoy. I heard army personnel, and police speaking to each other in urdu. One man was saying loudly that Imtiyaz killed Zakir and we will take revenge by killing 20 of his people. The person who said it was wearing a uniform.

Thereafter, around 2:30 pm, a spate of beatings and raids by armed personnel began amongst the tradesmen on the Sailan market street, and shops were closed. Rafiq slipped away, afraid that he would be identified as a family member, by the several ‘Gujjars’ he spotted in the crowd, who he felt may point him out to the army personnel as being a relative of Imtiyaz’s. The Mughal road to and from Sailan, its only motorable access, was blocked off in an undeclared curfew, and locals were warned at the various check posts that no movement whatsoever would be permitted beyond 6:30 pm. As evening fell on the village, Imtiyaz’s extended family grew extremely anxious. As mentioned earlier, tensions between the armed forces, and SPOs in the area and men belonging to Imtiyaz’s family had been mounting in the past weeks, even before the killing of Zakir, and many members had been searched for, identified and detained for third degree questioning about Imtiyaz’s whereabouts. Zakir’s death it was felt would inevitably bring about a fresh onslaught of violence, especially in light of the threat of reprisals that had been publically heard by many locals, including members of the immediate family.

In 1998, Mohammad Latief, Imtiyaz’s maternal cousin, the son of Lassa Sheikh’s sister Sarah, then around 25 years old, who lost his parents and four younger sisters (Zarina aged about 20 who was eight months pregnant, Yasmina aged about 16, Javaida aged about 13, Shagufta aged about 9) in the massacre, was working in a construction company in Saudi Arabia.

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Image 11: Members of Latief and Shabir's family killed in the Massacre. From Left to Right, clockwise from top row Yasmina (16), his parents Ahmad Din Sheikh and Sara Begum, Zarina (20), Shagufta (9) and Javaida (13). The picture had been taken only months before their deaths, as a gift to Latief, who was away in Saudi Arabia

Latief had returned home to Sailan for his annual vacation, about three days before the massacre. His mother, worried by the escalating tensions in the village and the repeated violence on the male members of the households connected to Imtiyaz, had asked him to leave Sailan, and had made him promise to stay at the house of a relative, a Junior Engineer in Surankote after only two nights at home. On the afternoon of third August, at about 2 pm, he heard about the killing of Zakir, and tried to make his way back to the homesteads in Upper Sailan to ensure the safety of his family. He had already heard rumours of checkings, beatings and raids in Sailan, which had been effectively cordoned off, in the intensive manhunt for Imtiyaz, after Zakir's killing. He decided to board a bus for Sailan nonetheless. The bus was stopped at the entrance to the army camp near Bafliaz Market, on the other bank of the river. He learnt from locals that the Superintendent of Police, (Special Operations Group), SP Sevak Singh was shortly expected. At about 5 pm, he saw a white gypsy, carrying men wearing uniforms of the Special Operations Group (SOG) arrive at the camp gates. A high ranking policeman, with several stars on his lapel, who he later learnt was SP Sevak Singh, got out of the gypsy, and shook hands with Major Gaurav, who was waiting for him at the gates. Both men entered the Bafliaz camp on foot, as the Gypsy drove past them. Latief's bus, like most other vehicular traffic on the road was turned back and not allowed to proceed towards Sailan. Latief returned to Surankote, and spent a sleepless night.

By nightfall on the 3 of August, 1998 Imtiyaz's terrified family had decided to abandon their home fearing a late night 'crack down' or worse. When Mohammad Shabir, then aged 18 returned from Bafliaz, where he had gone to collect his school certificates at about 5 pm, he found the elders of all three families – his father, Ahmad Din, and his uncles Lassa Sheikh (Imtiyaz's father) and Hassan Mohammad as well as their wives (his

mother and aunts), engaged in a tense and anxious discussion. He informed them that he had seen Zakir's body at Bonikhet, and had himself heard the Army Major make loud and public threats. Maqsood, (then about 18) Imtiyaz's younger brother, and an eye witness to the chase and Zakir's killing, had also returned from Lower Sailan by this time. On his way home, he had met Hajji Abdul Rashid, who had seen the body being taken away to Bafliaz camp, and who told that him the family should flee immediately, as he had heard army personnel making threats that they 'would not live to see the dawn.' Fearing reprisals, some of the younger males had left the houses, given their past experience that torture and more severe harassment was generally directed at the males, rather than at women and children. One of Imtiyaz's cousins, Afzal, (the son of his paternal uncle Hassan Mohammad) decided to stay the night at his married sister's house nearby, while Latief, another cousin remained in Surankote, as mentioned earlier. Imtiyaz's entire family moved their belongings and valuables to the home of his cousin Ramzaan, on the evening of 3 August 1991 having made up their minds to leave the village indefinitely. But as it was growing late, and an undeclared curfew and intensive checking was in force in which they were afraid of being identified as related to Imtiyaz, it was decided that they would stay the night at Hassan Mohammad and Ahmad Din's homes, and leave the next morning. On the night of 3 August 1998, Imtiyaz's family members consisting of his father Lassa Sheikh, (65) his mother Zainab bi, (50), his two brothers (23) Maqsood Ahmad, (then 18) and his three minor sisters Shaheena (12) , Jabeena (8) and Tanveera (4) therefore took refuge in the homes of Imtiyaz's maternal and paternal uncle, with the children staying at the house of Hassan Mohammad and his family, and the adults at the house of Ahmed din Sheikh, on the lower of the tiers. Maqsood Ahmad, Imtiyaz's older brother was the only one amongst them who lived to see the next dawn.

Chapter 2 The *Qatl-e-Aam* of 3-4 August 1998

This chapter provides an account of the events of the night of 3-4 August, 1998, and its immediate aftermath, told in the voices of survivors, family members, and local residents of Sailan. It rescues the events of Sailan from the official narrative of an anonymous and fictionalized 'encounter' or act of cross border terrorism', and populates it with counter - memories of living truths: what happened, who did it, to whom, what it all felt, looked and sounded like, and what they suffered afterwards. It includes disturbing photographs of the dead and desecrated bodies, which readers may find disturbing.

THE NIGHT OF THE MASSACRE:

The members of the three families huddled together in the two houses belonging to Hassan Mohammad, and Ahmad Din Sheikh on the night of 3-4 August, 1998. The adults were unable to sleep and stayed up talking about the death of Zakir, and their fears of a revenge attack or further harassment. Abdul Ahad, then aged about 20, in his own home, when they heard knocking on the door. Abdul Ahad's father, Hassan Mohammad opened the door. Two uniformed men, who they recognised as Mohammad Younis 'Tiger', and Mohammad Rafiq 'Pathan' (both close associates of Zakir and SPOs like him) were at the door. They both entered the house. The shadowy figures of about ten to fifteen men, also in army uniform, could be seen milling around in the compound behind them through the doorway. They had already searched Imtiyaz's home, located on the same level as Hassan Mohammad's, and found it empty.

Abdul Ahad, Hassan Mohammad's son, and survivor of the massacre recalled:

The time was about 12:30 pm. Someone knocked the door [...] Two people with uniforms entered. They had covered their heads with black cloth. They were with army people in army uniforms. It was 'Tiger' and 'Pathan'. They had weapons with them. The weapons were also covered with a cloth. 'Tiger' asked me where Imtiyaz's family was. I said some of their family is with me, The others are at my uncle's place.

The men grabbed hold of Iqbal, Imtiyaz's older brother, who was mentally challenged, asking to be shown where the adult family members of Imtiyaz's family were. Iqbal was terrified, and began crying and shivering uncontrollably. Abdul Ahad told the men that he was incapable of understanding their instructions or showing them the way. The men then caught hold of Imtiyaz's other brother, Maqsood and dragged him outside, asking them to take them to Imtiyaz's father. The men left and the front door was bolted from the outside. In the confusion over taking Iqbal or Maqsood, Hassan Mohammad managed to persuade his son, Abdul Ahad (28) to slip away. Abdul Ahad spent the rest of the night in the maize fields about twenty metres away from his house. From there, he watched Maqsood Ahmed being forced to lead the men, to the house of his uncle Ahmad Din.

Maqsood Ahmad said:

People from all three families were gathered in [Ahmed Din's] I said loudly, 'open the door quickly!' They opened the doors. There were already two uniformed people waiting outside the house. I could not recognize them because I did not have time. Those two went inside the house. I was left outside with Tiger. There was some commotion inside the house, I could hear the

sounds of questioning about Imtiyaz. At this point, Tiger left me and began inspecting the perimeter of the house, they were worried about the house having three doors and wondering whether Imtiyaz could come out from some other exit, and take them by surprise. I took my chance, and hid in the maize, which was over head high.

Shabir, Ahmed Din's son, who was inside the house at the time remembered:

That night many of Maqsood's [Imtiyaz's brother] family, including his father, were spending the night at our home. Around twelve forty five, we heard the sound of foot steps and voices, coming towards our house. We heard [Imtiyaz's brother] Maqsood's voice outside the door, calling out for his father. Imtiyaz's father was about to go the door, but my father got up and asked Imtiyaz's father to sit down. The two SPOs, Maqsood Ahmad Khan and Mohammad Akbar Malik, came into the room. They were wearing army uniforms. During such joint operations, the SPOs used to don army uniforms. Even otherwise, they would often wear army uniforms, the simple uniform not camouflage. We could see Tiger and 'Pathan' standing just outside with Maqsood.

The men started demanding to know where Imtiyaz was. The other two SPOs, 'Tiger and 'Pathan', also entered the house during the questioning, Maqsood had managed to slip away by this time, in the confusion. The armed men began searching the premises, turning everything upside down. Members of both families were shepherded outside.

Shabir, who was amongst them said:

In the compound I noticed an army man with a turban. There were also several other people, some in uniform. We were asked to walk in a single file, and were taken uphill to Abdul Ahad's [Hassan Mohammad's son] house. Everyone was made to sit down on the ground like school children. Two army jawans, with their weapons were standing in the corner of the room. A clean shaven officer, was talking to some of the gathered people. He was threatening us, 'We will make you talk to Imtiyaz!'. He was wearing an officer's cap and a jacket, but he had no name plate. His eyes were blood shot, and he had dark skin and very dark lips. The four SPO's were also there. There were a total of 20 people from our family there including me, about seven-eight uniformed people in the room. The officer motioned for Imtiyaz's father to get up, and stand next to the wall. He asked again, 'Where is Imtiyaz?' Imtiyaz's father said, 'When he came home I handed him over to the police. Then he ran away, and has not come home since.' The Officer said, 'Tell me the truth.' Imtiyaz's father replied, 'I am telling the truth, he went with the militants. He sometimes comes to the village but not to the house.' The Officer said, 'Imtiyaz killed Zakir, who was a source for me.' The officer made a gesture towards Tiger, and Tiger began to hit Imtiyaz's father mercilessly. We were all watching, unable say a word. The officer then motioned towards Tiger again. Tiger fired at Imtiyaz's father's leg. He fell down, bleeding. His family moved towards the fallen man to help him. I saw my father turn towards the army officer, and catch hold of him, shouting angrily. I heard the army officer say 'Fire!'. By this time I had reached close to a small trap door, which led to the storage area, where we keep our fodder, and I managed to slip outside into the store, then finally out into the fields through a skylight. By the time I reached outside, the continuous firing had started. After the sounds of continuous firing for about ten minutes, I heard the sounds of crying and screaming. Then there were single rounds fired with intervals between them, for a few minutes. Then there was silence. I stayed the whole night outside in the maize fields. I saw many people, the army and SPOs come out of the house, and saw torch lights, going down the path. I also heard the sound of vehicles on the [Mughal] road, even though all movement of vehicles had been stopped at 6:30 pm. In about 20-30 minutes they seemed to have all left, but I remained

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hidden in the fields till dawn, too afraid to go back, as I was unsure in the darkness, if all the men had left, or some were still in the area on the look out for Imtiaz. There were bright lights, like search lights, shining from the camp uphill [belonging to the 27 RR] and I guessed that they were looking for Imtiaz in the hills and fields. The lights were both moving and fixed. Every time a light shone near me I would freeze with fear. The only reason they didn't find us [the men who were hiding in the fields] is because they were scared to search too thoroughly. They feared an ambush by Imtiyaz and his men.

Many people heard the sound of gunfire, coming from Hassan Mohammad's house. Among them was Hassan Mohammad's son Abdul Ahad who was hiding in the maize field's barely 20 away. He related:

I saw that all our family members had been taken out from Shabir's [Ahmad Din's] house where they were hiding. 4 uniformed men were accompanying them to our house in a line. Some other uniformed men also joined them on the way. At my house some uniformed people were standing at the entrance, others were outside in the compound. After about 10 minutes, I heard a single round fired. Then I saw one uniformed man come out, he was standing under tree there [Points to the spot]. I heard him speak aloud, I think this person was speaking on a [wireless] set. After this man went back inside, a lot of firing broke out. There was firing continuously for 10-15 minutes. I ran far away, deep into the hills, fearing for my life. The place where I went is a very dangerous jungle area where people would not walk even in daytime.

Afzal, Hassan Mohammad's other son, and Abdul Ahad's younger brother had stayed over at his sister Taaja's house that night, located about three hundred metres higher, on the same hillside.

He said:

At about 11:30, that night I went to sleep. At about 12:30 I woke up to the sound of firing. I looked outside the window and both my sister and I saw the light of torches, and the shadows of people moving around outside our [Hassan Mohammad's] house. I could hear firing coming from inside the house. It continued for about 15-20 minutes. Once it stopped, I began running towards my house. Through the fields I saw a group of 20-25 uniformed men moving down the pathway towards the road. The light of their bright torches shone on the army outfits. I heard them saying that they had taken revenge for the killing of Zakir Hussain. I also saw cars moving on the road below – but I could not recognize what kind of vehicles they were. After about an hour, of waiting in the fields, I returned to my sisters house. We stayed up the rest of the night.

Imtiyaz's cousin Shabir, who was hiding in the maize fields, made his way back to Hassan Mohammad's house where the gun fire was heard, at the crack of dawn, when he was able to see that the uniformed men appeared to have left the compound and the surrounding fields. He related:

As I entered the house, I slipped and fell because the floor was slippery. There was so much blood[...] The first thing I saw was a shell of an SLR [Single Loading Rifle used by Indian Army] gun fallen near the door. [Later I saw] There were some live shells lying around the room as well... I picked it up. I saw my father's dead body...I saw a pile of dead bodies. They were everywhere. They had been hacked and mutilated, cut to pieces, arms and legs were lying at a distance from the torsos, some had been hacked at the neck as well...There were axes, rods, kitchen utensils lying all over the room. There was an axe embedded in my sister Javaida's hip. She used to be a big cry baby, she used to faint at the slightest bit of pain, and I saw her in that state. The axe had penetrated so deep into her hip bone, that two people had to hold down the

body, and another person had to pull it, when they were trying to take the bodies down for the funeral. Every time they would try to pull it out, the whole body would be lifted up along with the axe... They still could not remove it... I remember that Imtiyaz's mother's body, was lying behind a large kanalla (a large tray used for kneading dough)- It had been placed upright, like someone had tried to shield themselves with it. It was riddled with bullet holes. They had been shot through it while trying to save themselves. The blood had splattered through it. Zarina's (his sister who was eight months pregnant at the time) stomach had been backed, and the baby's arm was visible. I saw so many other terrible things which I don't remember. It was a qatl-e-aam. (a general massacre).. Immediately after seeing the bodies I ran out of the house and started screaming and crying. Near the doorway, pinned to a safe, I later saw that someone had left a note written in urdu, on a note paper with a Lashkar-e-Toiba letterhead. It said '5% of the job is done, 95% still remains'. I think they meant that killing Imtiyaz himself was 95% of the task. The note was a plant, to make it look like an outside job. The army and police always have such things in their possession. But I had seen with my own eyes, that it was no outsider, no Pakistanis, no Lashkar-e-Toiba, this is all a ruse. It was Zakir's men and the army. Everyone most of all the army and police know that.²⁷

Hearing Shabir's screams, his cousin Abdul Ahad and Afzal also arrived. Soon others came too, from lower Sailan and the neighbouring houses, as the news of the *qatl-e-aam* began to spread like wild fire. Abdul Ahad recalls that the village *numberdar* (revenue official) was in the crowd, and he told him, that he had himself seen and identified two of Zakir's associates, who were SPOs among the people who had come to the houses. The *numberdar* told him not to mention this to anyone else, and to flee from there. Personnel from the 27 RR also arrived in the village soon thereafter. Meanwhile, all the surviving family members and neighbours headed down towards Lower Sailan and Surankote, to inform the authorities, leaving a few elderly people behind in the area to watch over the scene.

THE VIGIL, THE POST MORTEM, AND THE BURIAL:

Latief, Ahad Din Sheikh's older son and Imtiyaz's cousin, who had spent the night at Surankote town after being disallowed by the army check post at Bafliaz from proceeding to his home in Upper Sailan the previous evening was in Surankote market at about 7:30- or 8 am on the morning of the 4 of August when he heard the news. He recalls:

I was walking on the market street in Surankote, trying to find out if the road to Sailan was open, when Bashir, a shop keeper called out to me, and asked me to come into his shop. I think he had already heard that something had happened, but did not know how to break it to me. His was one of the few shops in the market, which had a landline phone. He went outside for a moment, when the phone rang. I answered the phone. It was someone calling from Sailan. Without realizing that they were speaking to me, not to Bashir, the person on the other end said that there had been an atrocity, and all the members of the three families [related to Imtiyaz] had been wiped out. I was in shock. I immediately started to proceed towards Sailan. On the way, at the chowk, I met Sarfraz Khan [a local political activist], he had already heard about the news, and had begun mobilising people. The DC [Deputy Commissioner, of Poonch M.S Khan] and the BMO [Block Medical Officer, Surankote Dr Mumtaz] arrived and met us at about 9:30 am. By this time I had been in touch with a police man friend of mine, and he had told me that he heard on the police wireless that there was a plan to destroy the bodies, by 'blasting' the house. I told DC Sa'ab this. He nodded and replied that he too had heard this,

²⁷ This note is also mentioned in the SHRC final order, which however fails to remark on the letter head.

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from his sources. They had already tried to go to Sailan earlier in the morning and had been stopped by the army at Bafliaz itself. He said that we had to bring the bodies down as soon as possible, otherwise there would be nothing left... I heard that SP J.P Singh [Superintendent of Police, Poonch] had arrived, and went up to him, and started shouting at him, saying that I had heard they were planning to destroy the bodies. He immediately asked me, "Who has told you this?" When I told him, he abruptly left from there.

Earlier in the morning, at about 9 am, the Block Medical Officer and the Deputy Commissioner had already tried to make the trip to Sailan, along with the police Station House Officer, (SHO) Surankote Jagjit Singh (now deceased) and Superintendent of Police (Special Operations Group) SP Sevak Singh. They had been stopped by 9 Para personnel at Bafliaz, on the far side of the river. They could hear the sound of gun fire in the opposite hillsides, and were told that a fierce encounter was still in progress. The police was inclined to return to Sirankote, but the district officials were seen at Bafliaz market, arguing with army personnel, by the people from Sailan, including surviving members of the families, who were travelling towards Surankote, and knew that there was no such encounter in progress. Block Medical Officer Dr. Mumtaz, related that he was convinced that the firing was staged by the army, to prevent them from proceeding further.

I knew [from Sailan residents] that there were no militants firing in the hills. After all, they were themselves coming from there, and could see that the returning fire was coming from the army camp uphill. It was all being done by the army. They themselves were firing from all four directions. I told them as much, but they refused to let us proceed. We were forced to return to Surankote, where there was already a large gathering of people. The SP (Superintendent of Police,) was of the opinion that there would be a law and order problem, if we brought the bodies back to Surankote. They were under pressure to hand over the bodies to the army. We addressed the restless gathering, and told them that we would make every effort to take custody of the bodies, and bring them back, so that proper procedures could be followed, and a decent burial could take place in the ancestral graveyard [in Surankote].

The crowd at Surankote was extremely angry, at what they viewed as the army and police's attempts to escape culpability by preventing the civilian district officials from accessing the bodies and there was anti-police sloganeering and stone pelting at the police officials who arrived. The police began beating people and taking people into custody at the Surankote police station. Nonetheless, the *jaloos* (procession) began to make its way to Sailan, led by the DC and BMO, as well as local political leaders. Latief, Imtiyaz's cousin, who was part of the crowd remembered:

All roads were sealed and every attempt was made to stop people from getting to Sailan. At Draba camp – between Surankote and Bafliaz – a Major stopped us but the DC, 'Syed Sa'ab' managed to get through. He argued with them, saying 'I am the District Magistrate, and I know what the law is. I can take custody of the bodies. The army has no right to the bodies of civilians.' At Bafliaz, the 9 Para and the people had another altercation. It became a physical fight, as the crowd was not ready to listen to the army at all. During the tussle, a local boy threw one army person into the nallah. The army fired in the air to disperse the crowd, but we were adamant, and refused to back down DC M.S Khan, [local political leader] Hameed Manaz, and Dr. Mumtaz were the ones doing the arguing and talking on our behalf. But the whole crowd was behind them. When we were stopped at Bafliaz there was sound of firing and shelling in the mountains. This was done by the army to scare us. We knew that they would not be firing [by militants] when we trying to take bodies of martyred innocents, for a proper burial.

That too, of Imtiyaz's own family members. The jaloos had about fifty buses and trucks, full of people as well as other vehicles making their way to Sailan. People had come in almost way they could, to join the crowd. There were more than five hundred people.

The Block Medical Officer, Dr. Mumtaz too remembered arguing with the Army personnel.

I tried to reason with them. I also made a speech (takreer) to the crowd. I told them we have to get the bodies down. 'They are not safe. Wild animals or dogs may attack them, if they lie there unattended.' Finally at about 12:30 or 1 pm we were able to get to Sailan Market, and proceeded on foot to Upper Sailan. Many people accompanied us, and helped us carry down the bodies, while some people waited in the market. The bodies were horribly mutilated. There were bullet injuries, blunt force injuries, injuries by sharp objects. Axes, knives or swords, and sticks were used on them post death. I reported all this in my post mortem. I would say that there were twenty dead, not nineteen, because the baby in the womb was almost full term, of a viable age. It could have survived. We brought the bodies down to Sailan market, and then proceeded back to Surankote Tehsil headquarters.

Latief, recounted the journey back to Surankote, with the bodies of his family

Once again there was firing at Bafliāz on the way back. The army officer at Bafliāz (the major) insisted that they should be buried there in Sailan itself. But we refused. We said that we would not bury the bodies until some official inquiry was made, and we could make arrangements for a proper funeral. We wanted the CM (Chief Minister) to personally come and see the state of the bodies. The crowd was outraged and adamant. There was another stoppage at Draba.

The Block Medical Officer, Dr. Mumtaz, at the Government Hospital in Surankote, conducted the Post Mortem on the bodies on the 4 August 1998. Dr Mumtaz who was interviewed for this report, and who now runs a charitable hospital in Surankote helpfully stated that he would try to provide the researcher with copies of the post mortem medical documents. But he later informed the researcher the through a letter dated 19 July 2014, that he was unable to do so, as the file had recently been taken away by the Central Bureau of Investigations (CBI) in the course of their investigations.

On 4 August 1998, at 8:15 pm an FIR (no. 122/98) regarding the massacre, under sections relating to waging war against the state, illegal acts by enemy agents, murder and house trespass was registered at the Police Station at Surankote blaming the killings on unidentified foreign militants, purportedly on the basis of 'local information' despite overwhelming eye witness evidence to the contrary. The FIR written in *urdu* states that a gang of militants who had come from Pakistan, equipped with arms and ammunition had entered the country with the aim of disturbing the peace, and committed murders with criminal intent. It wrongly states that the killings took place in the house of Lassa Sheikh, (ie Imtiyaz's father, rather than that of his uncle Hassan Mohammad) and goes to state that the foreign militants, fired indiscriminately at the 19 named victims, and thereafter used axes on them. It states that this is the twenty fifth such act of 'cross border' terrorists, and urgent investigation is required.

The statements of survivors and eyewitnesses were never properly recorded as part of the police investigations, and they were not even aware of what the FIR said, until much later. Shabir, an eye witness and survivor said:

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We had nothing whatsoever to do with the registration of the FIR. In those early days after the massacre, we were terrified of the police, and would not even go near the police station for fear of being tortured, or even killed. We knew right from the beginning that our lives were in danger, because of what he had witnessed. About a week after the killings, someone told me that the police wanted to see me. I went to the Surankote police station, with some friends. I recorded a statement before a Munshi (police writer), who was sitting alone in a small room. I told him everything, but I have no idea what he wrote down. He never read it back to me, or showed what he had recorded. I don't know if any other statements were recorded.

In response to a RTI application, relating to encounters in Poonch District, the police stated that 19 civilians and 1 one unidentified unnamed militant had been killed in the 'encounter', which involved the Army and Police,²⁸ though there is no mention of any such militant death in the FIR.²⁹ The survivors of the Sailan massacre maintain that there were no militants were involved. They conjecture that one individual (from amongst the perpetrators) was injured during the killings, and was carried downhill on a *charpoy* (string bed) as a *charpoy* was missing from the home. A charpoy, and blanket belonging to the family, was seen and identified by neighbourhood boys picked up by the army and taken to the Bafliaz camp a few days later, lying in a dump in the camp premises.

After the Post Mortem the bodies were placed in the Tehsil (Revenue and Court) Complex in Surankote. A large crowd gathered outside the Tehsil complex. The bodies had begun decomposing in the August heat, and some white solution, perhaps a disinfectant was sprayed on them, by officials. They were also hosed down by the fire brigade, with water to delay the decomposition. When some members of the public, tried to photograph the bodies to preserve the evidence of their state, they were stopped and their camera was forcibly taken away by plainclothes men from the Criminal Investigation Department (CID). In one of the photographs, that family member's managed to take, the limbs of one of the victims, has been placed close to her torso, but can be clearly seen as being totally severed from the rest of her body at the shoulder.

²⁸ Letter No CIV/RTI 37-1/2012/1558 -60 dated 20 October 2012 from Jammu and Kashmir Police, on file with JKCCS

²⁹ FIR no 122/ 98, dated 4 August 1998, Surankote Police Station.



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Image 12, 13, 14: The bodies at the Tehsil Complex. The white spots are a disinfectant sprayed on them by authorities.

Latief, and other friends, relatives and family members slept on the floor in the Tehsil Complex itself, exhausted from their traumatic day. By this time, locals fearing further

reprisals, had abandoned the village of Sailan and they too were taking shelter, either at the Tehsil Complex, or in the homes of Surankote residents. It began to rain. The bodies were in a covered shed, near the back of the Tehsil Complex.



Image 15: The Tehsil Complex, and the shed where the bodies were kept. The top floor and roof were blown up in a 'blast' few weeks later, and subsequently rebuilt

At about 2 am (early hours of the 5th of August), SP Sevak Singh visited the Tehsil complex. He was accompanied by several labourers, and stated that the bodies had to be transported to the graveyard, to be buried. The sleeping family members were hurriedly woken up. After some argument, Latief went with him to the site, accompanied by several locals. He related:

I went to see the graves which they had dug, in one corner of the graveyard. They were very small and not at all deep. Hardly two or two feet long. They were just planning to heap the bodies together and dump them in these shallow graves. Everyone was very angry, we started shouting at him, that we would not bury the bodies like this. I was so angry I gave him a slap. We even pelted stones at him. He was forced to leave.

The family members and locals sheltering at the complex, spent the rest of the night wide awake, standing on guard beside the body with sticks and rods, in a *dharna* (vigil) so that they could not be taken away without their permission. Latief mentioned a strange rumour about what happened at the graveyard, while the police were still engaged in digging the graves.

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We later heard, that late at night while they were digging the graves to make them bigger, a huge black snake came out of one of the graves they had dug. It was raining heavily. The policemen all got terrified, and ran screaming back to the police station.

Several senior police officers and officials came to the Court complex to inspect the bodies the following day. Latief remembers, the present Additional Deputy Inspector General of Police, Rajouri (A-DIG) K. Rajindra's visit. The Station House Officer (SHO) of Surankote, Jagjit Singh (now deceased) was also present. Latief recalled:

I shouted at K Rajindra and pelted stones at him. Others too joined in the stone pelting. He was involved in the cover up too. He too was forced to run away from there. The police had made a plan to bury the bodies the previous night itself in Surankote. They had brought labourers from outside, and set aside a small plot of land , about two kanals, in the [Surankote] grave yard. The labourers told us about the digging of the graves. Some police men too were helping them. K.Rajindra knew about this. The whole police establishment was involved in the cover up plan. I shouted 'kutte' (dog!) at the SHO, and wanted to stone him as well. I told K. Rajindra,—‘My father was six and a half feet tall, how do you expect him to fit in such a small grave? Why don't you lie down in it, and see if you fit.’

By the morning of the 5 of August, the surviving family members took a decision, to bury the bodies as they were decaying terribly. All the roads to and from Sailan remained closed, and Surankote too was under a state of undeclared curfew. Funeral arrangements had to be hurriedly made, and the proper funereal rites and ablutions could not be observed, due to the state of the bodies. Only about 500-600 local residents from Surankote and Sailan, could attend the funeral, as many people who wanted to attend were turned back. The *jinaza* (funeral prayers) were read in an enclosed ground, adjacent to the graveyard, in front of the gathered crowd.

The graveyard at Surankote, is enclosed on two sides by a large army camp, presently housing the 311 Rashtriya Rifles. The old route which led past the graveyard, to the Government College at Surankote, continues to be blocked off by Army camp, and its barbed wires to this day. The *jinaza* ground, a large open field, beyond which the graveyard lies is completely enclosed, by high walls and barbed wire. On the day (30 June 2014) that the researcher visited the graveyard along with Latief, one of the family members, a group of army personnel were engaged in clearing and decorating the area around a large grave site near the entrance to the graveyard, close to the army camp, making the military presence, which is visible everywhere in Surankote even more eerily palpable, and Latief visibly nervous, about especially about taking photographs. Graves of martyrs (*Militants* or civilians killed by the armed forces) and unmarked graves bearing unidentified bodies lie scattered through out the graveyard.



Image 16: Armed forces at Surankote Graveyard

The nineteen graves of the Sailan victims, lie in a shady corner of the graveyard, with terraced paddy fields, and the Suran river visible beyond them. Bullocks placidly plough the paddy fields on one side. The graves bear markers memorialising the victims, and the massacre. They are arranged in order of size, and the smallest of the concrete graves, probably that of the youngest child, covers an area of barely two feet. Next to them, in a parallel line, lie the graves of the Fourteen victims of the Mora – Bichaii massacre, which took place in August 1999, a year later in the neighbouring hamlet Sailan residents implicate the same Superintendent of Police (Poonch) J.P Singh, who they say had unleashed a reign of terror in the region, in the period he was stationed there as an SP in charge of the Special Operations Group. After the Mora Bichaii massacre, the homes of the victims were set alight in a ‘blast’, and practically all the evidence was destroyed. Sailan residents say that this was exactly what was planned in the Sailan massacre as well, and only stopped because of their timely ‘rescue’ of the bodies from Sailan, the protests and constant vigil.

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Image 17, 18: The Memorial Stone and Graves of the victims of the Massacre



Image 19: Latief looks at the graves of his family and those killed in the Mora Bicchhaii Massacre

THE ABANDONED VILLAGE AND THE PROTESTING TOWN:

Shabir, an eye witness and survivor of the massacre, ran into Faisal Gujjar, Zakir's father a few months after the encounter in which Imtiyaz was killed. After telling him about the encounter, Faisal Gujjar boasted 'What we did to Imtiyaz and your family, people will remember forever'. If the aim of the spectacular blood bath at Sailan, had been not just an act of individual reprisal against Imtiyaz, but to teach all the people of Sailan a lesson they would not easily forget, the plan succeeded. Terrorised by the massacre, people from the village of Sailan, and the surrounding hillsides began to abandon their homes and take refuge in the homes of relatives or friends in the immediate aftermath. One witness before the SHRC estimated that almost 900 people migrated after the massacres. This included people from the villages of Sailan, Bonikhet, and Chandimarh. A Gujjar pastoralist who still lives in his homestead with his family, about two hundred metres downhill from the compound where the massacres occurred, recalled the aftermath of the massacre.

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We did not hear anything that night. We are located on this side of the hill [facing Lower Sailan market] and the houses [where the massacre occurred] are on the other side, so the sound would not have travelled. We only learnt what happened the next day. All of us gathered when the bodies were being carried down, and saw horrible state of the bodies. [...] Even the smallest children were not spared. We were so terrified, that we gathered up our belongings, and went away to a neighbouring village that very day. We paid some Gujjar children to feed our cattle for a day or two, before we were able to come back and take away the livestock. The whole village, Lower Sailan as well as those who live on the hill sides ran away, Gujjars as well as Kashmiris. The terror (khauf) at that time was terrible, everyone was scared that they would be attacked next. You see, we are constantly under the gun [Indicating the two army camps, up and down hill from his house]. We came back, only two months or so later. Some came back after three months, some returned after a year. Some would come back to tend their properties, and then leave again. No one wanted to stay here. Some have still not come back.

Latief agreed with this. He stated:

People left the village, and found whatever accommodation they could. Some of us were given space in Tehsil Complex in Surankote. Later we [the immediate family] shifted to some official quarters next to the Tehsil Complex, which were allotted to us. Others rented rooms in Surankote, or Poonch, and moved in with relatives. Many people sold their properties. Land which was worth fifty thousand Rupees, was sold for five thousand rupees. Some people became well settled elsewhere, they never came back. People slowly started coming back to the village, after two or three months.

Imtiyaz's family became a part of the large scale and forcible depopulation of the hill sides of Surankote Tehsil, and their influx to the towns of Rajouri and Poonch, which took place in the Nineties, due the intense militarisation, and human rights violations in the region.³⁰

Latief, and his family remained at the Tehsil Court complex, first in the main block, then in the adjacent residential quarters for almost three months fearing for their lives. The SPOs implicated in the killings continued to roam around freely (as indeed they do today) threatening and intimidating the survivors, and sending them 'messages' about further violence that would be inflicted through relatives, and neighbours Latief recalled, two such occasions:

Five days after the killings, Mohammad Akbar Malik (one of the alleged SPO perpetrators) met me. He had also met me earlier on an earlier occasion, and told me that he wanted to be a killer like [well known renegade] Asgar. I had abused him. He said it was not his enmity with us, but his compulsion, (mazboori) which made him do it. He said he would tell me everything. I thought [SP] Sevak Singh had sent him. He had a pistol along with him, and I did not trust him. While I was talking to him I heard someone calling me. I told him I would come back in a bit. By then Akbar had left.

Many neighbours and members of Imtiyaz's extended family remained in the Tehsil Complex, for almost three months in deplorable conditions. The SHRC Inquiry Officer Justice Kuchai, who also visited the Tehsil Complex, about forty days after the massacre, on 9 September 1998, during the course of its 'spot inquiry' described the living conditions in the complex:

³⁰ See Choudhary, 2012: 68

Residential accommodation [was] provided to the fear stricken migrants of Sailan village, a section of them housed in Revenue Complex. The allotment of persons, male female and children in groups was quite disproportionate to the limited space which is used for sitting, sleeping and cooking. [It is] short of any kind of floor covering, with old, young, male and female lying on the naked cement floor. The human beings adjusted in these rooms were treated like cattle because of the limited space available.[...] The migrants after forty days from the date of occurrence were still seen in a state of shock[...] In one room occupied by [name redacted] there were thirty persons, men women and children living together in a pathetic plight, the other rooms were almost in a similar state. On oral enquiries about any relief awarded the migrants who were forced to leave their village out of fear, revealed that no relief had been provided and the and they have been left helpless to purchase every item, in their hour of distress, from their meagre earnings on the open market.³¹

About fifteen days after the massacre, SP Sevak Singh, under whose supervision the SPOs operated, met Shabir, along with a local lawyer Iqbal Vakil. He told Shabir, that he should persuade Imtiyaz to surrender, and threatened him with continued harassment and even death. Shabir related:

I told [SP] Sevak Singh that I did not know Imtiyaz's hideout, but he kept on insisting that I did and threatening me. Finally I told him that if I go into the hills looking for him they [militants] would persuade me to take revenge for the killings. I would have to pick up arms too, and join the jibaad, is that what he wanted? In fact, later on I got many offers to join the militancy, mujahids came to our village, and offered us guns. I thought about it seriously many times, I was tempted but I refused. I did not want to participate in further blood shed and violence and do to others what had been done to my family. In fact if I had a gun, Sevak Singh would be the first person I would hit (thoktaa).[Smiles] But I did not say all this to him, I only told him, that if I went looking for Imtiyaz, I too would be compelled to join the militancy. Sevak Singh got very angry at my reply. He said 'You better keep your mouth shut, if you want to save your life.' I understood it as a threat that I should not talk about what I had seen that night.

The public protests and unrest in the town of Surankote continued for over a month, as curfew like restrictions were sought to be applied, but were publically defied. Local political activists, including Sarfaraz Khan, a student leader at the time, were taken to the Surankote police station, and the local army camps, detained, threatened and tortured for their public involvement in the protests. Community kitchens were set up, and the migrants and protestors ate their meals at the Tehsil complex. About a week or two after the massacres, Jammu and Kashmir Chief Minister Farooq Abdullah, and then Union Defence Minister George Fernandes came to Surankote, to quell the unabating and intense protests. The surviving family members addressed them, and told them in no uncertain terms that the armed forces and SPOs were responsible for the crime. They gave a public assurance to the gathered crowd, that the massacre would be thoroughly investigated and the perpetrators would be punished. Shortly afterwards, the State Human Rights Commission Inquiry into the case was instituted.

³¹ SHRC order dated 21 October 1998, SHRC PS / 1127

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Image 20: The crowds outside the Tehsil Complex, a few days after the Massacres.

In light of their complaints of threats and intimidation from the implicated SPOs and Police, and the SHRC recommendations police protection was provided to the migrants and survivors in name, but it was proved ineffective, as an IED blast and a fire, a part of a ‘fake encounter’, occurred at the top storey of the complex, while some of the families were still living there on the lower floors, showing the reach of the armed forces and terrorising them further a few weeks later. Sailan locals believe that the blast and ‘encounter’ at the Tehsil Complex was specifically engineered by the armed forces to clear the Tehsil Complex of the gathered protestors, and migrants, as well as to threaten, if not kill the eyewitnesses. Shabir elaborated on what happened, whilst they were living in the Tehsil Complex, purportedly under police protection:

We [the surviving members of Imtiyaz’s family] were all living in the court complex after the incident. But that particular night, a few weeks after the massacre we were spending the night at the Residential Quarters next door, in the house of one of our relative’s who was a Joint Engineer. Later [after the blast] we were allotted quarters in the same block. An IED was placed inside the complex [...] the blast happened at 9-10 pm on the top floor of the complex, exactly above the rooms where we [the immediate family] normally stayed. At least twenty to thirty families were still in the Tehsil complex that night. But, fortunately no one was hurt, as they were on the first two floors. They ran outside when they heard the blast. There was a huge fire after the blast, the army and SOG came, and started firing at the building though there was no one there. We were watching from the quarters, next to the complex. The SHRC had told the police to take care of the eye witnesses and police protection was provided to me, and some others as I had seen everything [on the night of the massacres]. A constable Khadim, who was part of the police protection team, asked me the next day, ‘[SP] Sevak Singh had come at night and asked specifically about you. I told him that you had gone elsewhere for the night. This made me think that they were out to target me, because I was an eyewitness to the massacre. We were very scared. We then shifted to Poonch, and lived there for two or three years. We would occasionally return to Sailan to see to the family property, but we would not remain there over night.

Abdul Ahad described the scene at the village, and at his home where the massacre took place, when he returned there for the first time, a week or so after the massacre:

The place was totally deserted. (vairaan) The whole neighbourhood was empty, no one left. The house had been left in the same state. There were bullet holes everywhere. The floors and walls were covered with blood stains. The house had mud floors then, and the blood had soaked into the earth, about one, one and a half feet deep. We cleaned and replastered it for the chheblum. (Religious ceremony after a death) Later, we dug up the floor and replaced it with cement. This present house, [where the interview was taking place] was built on the same location, but we modified some of the layout. The entrance was in the other direction. We rebuilt it, because of the unbearable memories from that night. But this place will always have shadows from that night.

Chapter 3 The Legal Struggle

The legal route was not the only one available to survivors—they received offers from militants to exact their revenge using more violent means in the immediate aftermath of the massacres. But despite the threats, intimidation and frustrations that have beset the legal journey they have continued, articulating their demand for justice as a matter of rights, rather than revenge. The unconscionable delays, the innumerable long and wasted journeys to and from police stations, administrative offices and courts, the mysteriously disappearing evidence, the constant surveillance, and threat of violence, and the laws and legal procedures that ensure impunity for perpetrators of war crimes in Jammu and Kashmir, coercively create a situation where it is easier to reconcile oneself to silence, at least in public.³² Speaking out and seeking to unearth the buried evidence, using the courts as space of contestation of official facts and narratives about state crimes, requires exemplary courage, and entails difficult choices on the part of witnesses and survivors.

Shabir, who teaches in a primary school, and was a high school student when all the members of his family, other than his older brother Latief were killed, explained their moral choice in this way:

We're not saying hang them, or kill them [without a trial]. But, we have neither forgiven nor forgotten what happened, or who was responsible. They set fire to my house with a little flame. [ghar ko aag chiraag se lagaaye]. We want them to face punishment for what they did to us. We know that nothing can bring our families back. We know what it is like to lose everything, to become orphans in this world. To lose our sisters and brothers, no one can replace that loss. It is unimaginable for someone who has not gone through it themselves. I don't want anyone else to suffer what I have suffered. I cannot do that to anyone else, even my enemies. When I see those murderers, roaming free, flaunting their stars and medals, still harassing and terrorising people, I want them to suffer. But when the militants came to us, we refused. The poor army man from Bihar, he did not do anything to us. We cannot kill innocents. We are not like them, we are human beings, and we want to do things in the legal way, without more blood. Not behave worse than animals. That's the difference between them and us. We know it is difficult, nothing may come from it. We were afraid, that is why we stayed silent for many years. But now we realise, that speaking out publically about what happened, asking them for answers is the only way. We have done nothing wrong, yet they harass us. This only exposes them as the criminals.

This chapter traces the long, courageous and often torturous legal journey for truth and justice that the family members of victims have been on, since 1998. It begins with the enquiry, instituted by the State Human Rights Commission, in one of the early cases before it, in September 1998.

THE CASE IN THE SHRC

³² For an analysis and documented examples of such legal and legalized impunity see IPTK-APDP (2012) *Alleged Perpetrators: Stories of Impunity in Jammu and Kashmir*, IPTK-APDP : Srinagar. See also Allard K. Lowenstein International Human Rights Clinic Yale Law School. (2009) *The Myth of Normalcy Impunity and the Judiciary in Jammu and Kashmir*. Yale University: New Haven

The Commissioner Secretary, Home Department Jammu and Kashmir, wrote to the Chairperson of the State Human Rights Commission, Justice Kuchai on 4 September 1998, asking the then newly instituted body, to undertake a probe into the killings at Sailan. The SHRC took 'suo – moto cognisance' of the massacre, conducting a 'spot inquiry' visiting Hassan Mohammad's house where the massacre took place in Upper Sailan, on 9 September 1998, accompanied by 'district divisional commissioner Mr. M.S Khan, S.P (opns) Sevak Singh, some other officials, near relatives of killed, and some local residents of Surankot' [sic] and visiting the Tehsil complex, where many migrants from Sailan were still residing, as well as the graveyard at Surankote, and recording testimonies of eight eye witnesses to the massacre, at the Surankote Dak Bungalow on 10 September 1998, i.e. the second day of the visit. The SHRC enquiry resulted in two reports, the first an interim Report dated 14 September 1998, recommends identification of the slain SPOs, and bringing them into the 'net' of the investigations, as well as the payment of cash compensation 'on similar lines as may have been paid to survivors of killings at Wandhama' (i.e. Rupees 5 Lakhs). The second report, the final order dated 21 October 1998, includes the interim findings and recommendations, as well as comments on the role and jurisdiction of the SHRC, additional 'evidence' recorded by the Commission based on eye witness testimony, and several further recommendations.

On the first day of the visit, notices were placed in Sailan, and the gathered crowd was informed about the enquiry, and to submit written or oral testimony. The crime scene was examined, and the Enquiry Officer was shown various physical evidence of the massacre, including blood stained walls and blankets, bullet holes, shells etc. A public notice and announcement of the Commissions task, and its intention to gather written and oral testimony was made. A notice was also sought to be served on the 'local unit of the Army' through the SP Sevak Singh, who informed the Chairperson, that the 'the Army will not participate, but wants independent inquiry to be conducted.' The Commission received two written submissions, from Taj Hussain, the then President of the Poonch District Bar Association, and Aftab Azad, a Sailan resident and eye witness, The report describes the crowd that gathered, and accompanied the Commission to Sailan from Surankote as a 'huge gathering' who were a 'jubilant to depose and co operate with the commission.' It includes impressions gathered from conversations with people crowd, and district officials including the back story of the rivalry between Imtiyaz and Zakir, the definite involvement of the SPOs and the army stationed at Bafliaz Camp etc. as 'orally expressed' 'fact finding observations', which it treats as off the record and does not place much credence on, in contrast to the 'evidence' i.e. the recorded oral testimony of witnesses. It also describes at length the deplorable conditions that the Chairperson witnessed at the Tehsil Complex, and the general atmosphere of insecurity and terror. Specific mention of the involvement of the 9 Paratroopers stationed at Bafliaz, and of the 'army picket' 200 metres uphill from the compound is also made. Yet, in its conclusion, the order, while implicating the army for definitely being aware of what was going on that night, neither specifically identifies any perpetrators, nor strongly indicts the armed forces in light of the direct evidence, of witnesses. It is riddled with inaccuracies, about names, locations and events, cryptic, obfuscatory and elliptical references to unnamed insecurities and fears. For instance, while advising protection be provided to eye witnesses, particularly to Mohammad Shabir, who it recommends be 'admitted to a boarding house at Poonch College' to 'ensure the security aspect [...] ' which is needed most for him because of compensation to be awarded and other circumstances or post occurrence,' [sic] without mentioning why such security is so crucial, or the specific and repeated threats made by the implicated SPOs and police. The order also makes several vague uncorroborated references to the possible 'rape' or 'molestation' of the female

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victims, in light of the Block Medical Officer's 'oral' remarks to the Chairperson, but states that these observations were not recorded in the Post Mortem Report.

While the SHRC order says that 'it is not difficult, but easy to draw the conclusion how the occurrence took place, and who is responsible for the same', and that the SPOs associated with Zakir, 'in association with the army' were publically heard vowing revenge it concludes that 'no direct evidence nor any particular person has been named or identified to give definite clue of the heinous crime', contradicting several of its earlier findings and recorded testimony, including the written complaint of Aftab Azad, which by its own account mentions specific army units, and SPO perpetrators. It partially blames this reticence on the Sailan residents and survivors themselves, stating that despite their initial enthusiasm; only a few people came forward to render formal testimony. The testimonies themselves are summaries rather than transcriptions of what was said, and contain several inconsistencies, and factual inaccuracies. No mention is made of the fact that witnesses had seen uniformed army persons actively participating in killings, which they state that they had specifically and repeatedly mentioned. The names of the SPOs involved, which were public knowledge in the locality, are also not mentioned, despite being easily ascertainable. In one instance, it records that Mohammad Shabir, the son of Ahmad Din, had gone outside the house 'easing himself', when he saw the 'Army' approach his house, and take his family to Hassan Mohammad's house, when he has consistently maintained that he was inside his own house, then taken to Hassan Mohammad's house, and was present when the first of the killings took place. The order recommends the payment of compensation, but passes on the responsibility of naming and identifying the perpetrators to the police, and rather bizarrely the Unified Command of the Army, a body that has no investigative powers or role. The SHRC final order was ceremoniously presented to the Chief Minister of the State, but otherwise remained unknown and inaccessible, until it was 'leaked' in 2011.³³

Shabir explained the process, and circumstances in which the hearings of the Commission took place:

On the first day, a huge crowd of about hundred people gathered to meet him. [Justice Kuchai]. We thought that finally something was being done, someone would hear our story, and tell the truth about what happened, that's why many people came forward. They thought this was the only chance, before the army suppressed everything. There were officials, police, the DC, everyone was present. I spoke to him (Justice Kuchai) twice, once on the route to Sailan from Surankote, and then at the Surankote Dak Bungalow. But both times, there were many other persons present, and everything was done in a hurry. The first was perhaps an interrupted fifteen minute conversation, and the second (the formal testimony) was even shorter, maybe five or ten minutes. On the second day, we understood that only eye witnesses were called, that is why Latief (his brother) did not testify. Many others knew many things, but did not testify, either because they were afraid, or perhaps because they thought they had already spoken on the first day, and had nothing more to say. Besides there were enough of us, speaking to him, and the others were going to relate similar accounts, because this was the only truth. But those things are not written in the report.

When I met him at the Dak Bungalow, I told him everything. I named all the people, including the police, the SPOs, and the army major, who I knew only as Major Goora [Gaurav]. I said

³³ Jammu and Kashmir State Human Rights Commission. (1999). *Annual Report (1998-99)*. JKSHRC: Srinagar

I was inside the house, not outside. I have not changed my story. How could I change it, when everyone who I spoke to the next morning (after the massacres) had heard the story from me, and knew that I was a witness? But when I saw the report, I was surprised. There are so many mistakes in it. See, how long it has taken you to speak with us, and you still have so many questions and doubts. [Referring to the researcher]. It takes time and patience to get all the details. Also when you are being questioned, sometimes you may say the wrong thing or not be able to explain something properly, even when you speak the truth. Then only when you are asked to clarify something, you realise that you have not explained it properly. But with the SHRC there was no time for all that. There was a PA [Personal assistant] who was noting down what was being said, but we don't know what he understood, or how much he wrote down.

The families of the victims, in geographically and informationally isolated Sailan, had no access to the SHRC order, until 2011, when a local political activist gave them a copy. They received Rupees 1 Lakh in compensation, and some immediate relief measures in terms of rations, blankets etc at the Tehsil Complex where they were staying, pursuant to the SHRC's recommendations. A few immediate family members, including Shabir, Mohammad Afzal and Abdul Ahad, also later received government jobs on the basis of compassionate appointments under SRO 43, after many years.

On 22 May 2012, a complaint was filed before the SHRC, by the family members alleging that following their approaching the High Court for re investigating the case, four of the alleged SPO perpetrators Mohammad Younis (aka 'Tiger'), Mohammad Rafiq, (aka Pathan) Mohammad Akbar Malik and Maqsood Ahmad Khan, were constantly harassing family members of the victims of the massacre, and eye-witnesses to the massacre. They ask for the security from the constant victimization. Their complaint mentions the following specifics:

'Maqsood Khan then SPO, one of the accused in the case, presently posted at CID office Surankote, has told a number of applicant's associates and other persons in the Surankote area that he has taken over as an officer in CID wing of police in the Surankote and now he would use his power to kill the applicants and eyewitnesses and will implicate them in a false militancy case.

Mohammad Akbar Malik then SPO, presently a Head Constable with SOG wing of police in Surankote, Akbar had told villagers that had they killed the applicant and his relative eyewitnesses, they would have not to face the trial in the court. Even many villagers know the fact that the accused persons say that whenever the applicants and eyewitness are cornered, they would shoot them. This has caused extreme anxiety to both the applicants and eyewitnesses.

Mohammad Rafiq Gujjar alias Pathan, presently working in District Police Lines Poonch, has also informed many people that whenever they would get a chance they would shoot the applicants and others who filed the case.

Mohammad Younis alias Tiger then SPO, presently working with Army at Draba Camp in Surankote, also threatened to kill both the applicants and eyewitness, so that the applicants would not be in a position to complete the legal process. Further he (Younis)

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had told some persons that his brother is in Territorial Army who would also teach a lesson to the applicants and eyewitnesses of the incident.³⁴

THE CASE IN THE HIGH COURT:

In 2011, members of the three families, decimated by the Sailan Massacre filed a petition before the High Court of Jammu and Kashmir [Original Writ Petition (OWP) 1572/2011] for re-investigation of the case by the CBI (Central Bureau of Investigations –India's apex investigative body) and implementation of the 1998 SHRC recommendations. In their Petition they named and identified seven perpetrators from the armed forces and police --the four SPO associates of Zakir, Superintendent of Police (Poonch) J.P Singh, SP (SOG) Sevak Singh, and Major 'Goora' of the 9 Paratroopers. The decision to approach the High Court, was mediated by a local social and political activist Sarfaraz Khan, who persuaded them that something needed to be done and put them in touch with Srinagar based human rights lawyer Mr. Parvez Imroz. The reopening of the Mughal Road in this period, had also allowed the residents of Sailan to visit Srinagar far more easily than in the past, and they visited the State Human Rights Commission, in Srinagar, and they had accessed the SHRC orders for the first time. The process of discussion, and consultations took almost a year.

The lack of information and silence that had surrounded the case made it difficult to know what, if any investigations, police had done in the interim period of 13 years. It is the usual practice of Jammu and Kashmir Police to not file the mandatory 'final report' in cases involving crimes against civilians by the armed forces, for years, even decades unless there is a public outcry, or some other form of pressure in the form of a petition in the High Court, or in the State Human Rights Commission. These investigations remain closed as 'untraced' (ie the police were not able to identify the perpetrators) on the police files, but the case diary containing investigative material (statements, maps, other evidence) is never presented to a Judicial Magistrate as required by law to officially close the case, thus ensuring that no trial can take place, even where there is sufficient prosecutable evidence.³⁵ This has been seen in the case of Kunan Poshpora mass rapes, where over fifty women were raped by personnel of the 4 Rajputana Rifles in 1991 (closure report was filed till 2013) and the Sopore Massacre where the main market in Sopore was set on fire killing over 50 shopkeepers and tradesmen (closure report was filed in 2013)³⁶

³⁴ Complaint dated May 22, 2012, addressed to the Secretary, J & K State Human Rights Commission, on file with Jammu Kashmir Coalition of Civil S, Srinagar.

³⁵ For other patterns of legal impunity ensured to Armed forces including the non registration of FIRs, the tampering of evidence, delayed and malafide investigations, non compliance with summons and court orders etc see International Peoples' Tribunal on Human Rights and Justice in Indian-Administered Kashmir, (2012) *Alleged Perpetrators: Stories of Impunity in Jammu and Kashmir*, IPTK-APDP : Srinagar. See also Allard K. Lowenstein International Human Rights Clinic Yale Law School. (2009) *The Myth of Normalcy Impunity and the Judiciary in Jammu and Kashmir*. Yale University: New Haven After investigations are complete, sanction for prosecution of armed forces is required under AFSPA and police under CrPC, from the Central and State Government respectively which in the case of the army has never been granted, thus consolidating the multi layered impunity ensured to perpetrators of see Press Statement by Jammu Kashmir Coalition of Civil Society, dated 22 October 2011, available at <<http://kafila.org/2011/10/23/lie-about-sanctions-under-afspa-jkccs/>>

³⁶ See court documents related to FIR no 10/ 1991, Trehgam Police Station and FIR no 8/ 1993, Sopore Police Station, on file with Jammu Kashmir Coalition of Civil Society, Srinagar.

The petitioners therefore sought a clarification from the High Court on whether the case had been closed with the permission of the court as required by law. The State through its lawyer submitted on 2 December 2011, confirming that the case was closed by declaring the perpetrators as ‘untraced’ but that it was ‘not sure’ of whether the case had been submitted to the court of competent jurisdiction to close it.³⁷

An application seeking transfer of the case to the Jammu Bench of the High Court, was filed by the state, before the Jammu Bench of the High Court, since the crimes took place in the Jammu Region. This too has been the State’s deliberate policy, knowing that the Muslim (and ethnic Kashmiri) victims of state violence would struggle to find legal representation, victim support, and human rights advocates in the highly communalized, hostile and nationalistic climate of the Jammu Bar Association, which has passed several resolutions asking its members not to appear in certain ‘terrorism’ cases. The Petitioners had already obtained the requisite permission of the Chief Justice (C.J Mathur) regarding the hearing of the case in Srinagar. Therefore, in the Sailan case, the Jammu Bench after hearing Petitioner’s version, of the difficulties of travelling to Jammu for every hearing, dismissed the State’s application for transfer of the case to Jammu.

After almost a year of procrastination and adjournments, the SHO, Surankote Police Station, filed a ‘compliance report’ dated 19 September 2012, before the High Court which said that the case had been investigated and closed on three separate occasions. It further stated that it was uncertain if the closure report was ever produced before a court, as the relevant documents could not be retrieved from the court or the police offices. The office of the Sub Divisional Police Officer [SDPO], Mendhar, where the file could last be traced as having reached, was gutted in a fire in September 2010, during the agitations against the ‘desecration of the holy Quran in America’. The only remnants of the police investigations 1998, were a ‘shadow’ case diary with the last entry dated 30 June 2006, written by Deputy Superintendent of Police. Based on this report, on 21 November 2012, the High Court ordered a re-investigation by the Central Bureau of Investigation [CBI], India’s apex investigative body. The CBI further filed an application asking that the case be transferred to the NIA (National Investigative Agency) since it related to a ‘terrorist offence.’ Since the CBI did not comply with the orders, and a Contempt Petition (CMP no 303/2013) was filed before the High Court by the family members. After some delays regarding the transfer of the case, since the case it was claimed by the Jammu Branch of the CBI was a ‘terrorist offence’ it was finally forwarded to New Delhi Special Task Force (STF) as Jammu branch was an Anti Corruption Bureau. After the filing of the contempt petition, new investigations were initiated after a fresh FIR (no RCDST2013S0023 dated 10 September 2013) was registered. But despite the Petition in the High Court, which specifically named the perpetrators, the earlier FIR (122/98) along with its blatantly fabricated averments and regarding the involvement of ‘foreign militants’. The blatant lie at the center of the case, remained undisturbed. The investigations were entrusted to Investigating Officer, Inspector Ashok Kalra, of New Delhi, STF on Anti Terrorism.

Inspector Kalra visited the scene of the crime in Sailan, once in late 2013. He also appears to have collected the post mortem reports, and have in his possession several crime scene police photographs (apparently not destroyed along with the rest of the file in the fire). In November 2013 he set up a make shift office, a ‘camp’ in Jammu city, at the Police Station and asked witnesses to come there for recording their statements. Inspector Kalra has had little or no infrastructural, staff or logistical support in Jammu and operated out

³⁷J&K High Court Order dated 2 December 2011, in OWP 1572/2011

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of make shift premises, which the family member's refer to as a 'camp'. Five witnesses made the 192 km journey, with some eyewitnesses doing so more than once. While recording statements, Inspector Kalra specifically urged them not to name senior officers such as SP J.P Singh, saying that they should only mention the local suspects at this stage, and the higher officials 'would be dealt with' in due course. It has been almost a year, since the fresh investigations began, without the filing of a charge sheet, or as is just as likely a yet another 'closure report' before the Court.

The re opening of the case brought the forgotten massacre of Sailan into the limelight as a number of newspapers reported the High Court's Order. But the breaking of the silence had other repercussions and consequences for the victims. The SPOs implicated who continue to be stationed in Surankote Police station, and attached to local army camps began a renewed campaign of harassing and intimidating them. On 9 October 2013, army personnel of the 16 Rashtriya Rifles, Draba Camp, came to their homes. They were interrogated on what they would be testifying about with regard to the Sailan case, before the CBI. The personnel of 16 RR lined up the witnesses and their families outside their houses and their pictures were taken.³⁸ In November 2013, when the family members had gone to Jammu to record their statements, on the day one of the eye witnesses, Mohammad Afzal was to record his statement (two statements had already been recorded) he was hit from the back by a speeding motorcycle, in a hit and run incident on while he was on the pavement walking to the police station/ 'camp'. He suffered serious injuries to his head and face, and had to be hospitalised for several weeks. He had to undergo surgery to reconstruct his fractured jaw bone, which he could not open for several months. He was deeply shaken and frightened, by what the entire group viewed as a deliberate attempt on his life. Mohammad Afzal did not thereafter record his statement before the police.

Informative Missive a human rights documentation news letter published by an affiliate of JKCCS, quoted several threats made to the survivors by the SPOs for having the case reinvestigated conveyed through neighbours, including that 'We [the SPOs] made a mistake by not eliminating them. Now we will book them in [fake] militancy cases. We are capable of framing them and no one will spare them if they carry on with the case'.³⁹ On another occasion, Latief was directly threatened by an SPO that the few remaining survivors too would be subject to the same gruesome deaths as inflicted on their relatives by the SPOs. (*jo haal kiya thba wahi haal kardenge*). An altercation broke out, and a case was registered against the SPO for breach of peace (Section 107, RPC) On 23 July 2014, while this report was being written a fresh application was filed before the High Court, seeking information on the progress of the CBI investigations. The High Court has ordered the CBI to file its 'status report' on the case by the 18 August 2014. The legal struggle for truth and justice continues, as does the continued impunity of the perpetrators.

³⁸ Letter written by family members of the Sailan victims, to the Senior Superintendent of Police, Special Task Force, CBI, and Ashok Kalra, Investigating Officer, STF, CBI, New Delhi complaining of harassment by the army, dated 15 October 2013, on file with JKCCS, Srinagar

³⁹ Public Commission for Human Rights, 'Sailan Massacre Survivors Threatened To Discontinue Legal Recourse' *Informative Missive*, 30 May 2012

Conclusion: Living With Massacre

The massacre at Sailan is by no means exceptional. JKCCS has documented records of more than 29 such mass civilian killings by armed forces (7 or more deaths in a single event) though most such documented cases are from the Kashmir valley rather than Jammu. These include cases like Sailan, of reprisal or unprovoked killings of families or groups in their homes and localities, but also other kinds of mass killings, for instance firing at unarmed funeral or protest processions, and documented ‘fake encounters’ involving civilians framed as ‘militants’.⁴⁰ Besides massacres Indian forces in Jammu and Kashmir, have been irrefutably implicated by investigative agencies, human right’s bodies, journalists, official fact finding commissions and inquiries, and quasi-judicial and judicial institutions in mass rapes, acts of massive arson, and collective torture of entire villages or localities. A mass crime is a deliberate and staged enactment of lawlessness and impunity. It is a form of collective punishment and terrorisation. It serves to not just kill, maim and traumatise its victims, witnesses, and survivors, but to instil fear and despair in every one in its intended and captive audience, i.e. the entire population of Jammu and Kashmir. The occupation is made real, through such repeated and spectacularly violent criminal acts, the active incorporation of known local agents by exploiting social inequities and structures, absolute impunity to perpetrators and in fact their further official endorsement through promotions, awards and honours and creating a climate of fear about speaking out, by selective attacks and reprisals. Creating absolute terror through acts of excessive violence, where there is extensive local knowledge of the involved state agencies, yet complete deniability through the fictionalization of official documentation, destruction of evidence, and silencing of witnesses has been a strategy of the counter insurgency apparatus, not just in the Sailan but in the cases of many such massacres and mass crimes, especially in ‘border’ areas, both in Jammu and in the Kashmir valley. The people of Sailan and three surrounding villages abandoned their homes and livelihoods as a result of the massacre. Some have still not returned. Those who did, continue to live in silence and palpable fear as the identified and publically known SPOs directly involved in the killings continue to work among them, as before.

Practically every community, locality and village in the region has oral histories and collective memories of human rights violations, that they have experienced, resisted and continue to live with, such as the ones related in these pages. The telling of such stories is not easy, requiring courage in the face of enforced silence and painful memories. The families of the victims of Sailan are exemplary, because they have chosen not to remain

⁴⁰ The history of the Chattisinghpura -Patribal –Barakpora killings provide an example of all three kinds of massacres—mass killings of groups or families, killings in a ‘fake encounter’, and unprovoked firing on a crowd, occurring in a single connected series of events. On 20 March 2000, 34 Sikh villagers were killed, by men in Indian Army fatigues, possibly in connection with a visit of US President Bill Clinton. Five days later, on 25 March 2000 local Kashmiri civilians were abducted killed in a joint operation by named officers of the Indian Army and Police and framed as ‘Pakistani terrorists’ a claim disproved by subsequent CBI investigations. During protests against the killings on 3 April 2000, an unarmed crowd was fired upon in neighbouring Barakpora, killing 7.

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silent. They have, like many other victims, chosen the courts of law not as a legitimisation of the Indian State but as a site for resistance and contestation of official narratives, bearing witness to what has happened to them, naming names and exposing the inner workings of the machinery of secrecy, and impunity. The expectation is not of justice, in terms of punishment of the perpetrators alone, but of actively fighting back against cultures of impunity, by refusing to forget, stay silent and give in to the false narratives of an occupier's history.

The Sailan case provides us with telling examples of how such forces of erasure work. Even before the massacre took place, the people of Sailan lived under the shadow of the intensive and deliberately ethnically divisive militarisation, which made informers out of neighbours and killers out of shepherds and schoolboys. They lived under the constant watch of several sets of trained guns and uniformed men, with one camp at the top of their hillside, the other at the riverbank at the bottom, and a third across the river that flows by the village. Besides this, there were the police, specifically the Special Operations Group, and their subordinate SPOs, and other stated back militants and informers who lived and worked amidst them. The killings themselves were, as has already been pointed out, gruesome and staged enactments of the violent power of the state over marginal citizens. State representatives did not merely to publically threaten to kill, but carried out these threats, and subsequent to the deaths desecrated and mutilated the bodies. After the killings, the entire local police and army establishment actively collaborated to prevent authorised District Officials, and family members from accessing and taking custody of the bodies of their loved ones. The delegation of officials was actively impeded from approaching the crime scene and turned back. Shallow graves were dug by police in the Surankote graveyard, in furtherance of this plan. It was only the courageous and unified resistance of the families, their neighbours and relatives, the townspeople of Surankote and the co operation of the local Deputy Commissioner (Poonch) M.S Khan and the Block Medical Officer, Dr Mumtaz that ensured that the bodies could be brought back from the unattended and unsecured crime scene and the post mortem examination could take place, before handing them over to the family for a burial. The courage of ordinary civil servants, who 'do their jobs' against overwhelming official and unofficial pressures, are part of why accounts of such atrocities as the Sailan massacre or Kunan Poshpora mass rapes manage to leave a trace in the official archive at all, and cannot be dismissed in their entirety as militant hoaxes or fictionalized encounters, as they would otherwise most certainly be, given the propensities of the militarised state. The bodies were stored in deplorable conditions in a shed in the Tehsil complex, denying them dignity even in death. The FIR registered, purportedly on the basis of 'local accounts' contradicted eyewitness testimony, and failed to mention the known identities of the perpetrators, blaming unknown 'Pakistani militants' from the very inception. Later RTI responses have described the massacre as an 'encounter', between unidentified militants, and Army/Police in which one militant and 19 civilians were killed.

Protests and public outrage in Surankote refused to die down, for almost a month after the killings. To manage and pacify the crowds, Farooq Abdullah (then Jammu and Kashmir Chief Minister) and George Fernandes (then Union Defence Minister) met the protestors and promised them that the crime would be investigated and the perpetrators punished. A month later, the State Human Right Commission conducted a spot inquiry, and made recommendations for payment of relief to the migrants, compensation to the families, and investigations of the involved unnamed 'security forces' and 'SPOs' which it claimed that witnesses had failed to identify or name, a claim that family members deny and which is contradicted by its own order. The Commission was accompanied in its

village by SP (Opns) Sevak Singh, who was the supervising authority over four of the killers involved. The SHRC's recommendations on payment of relief and compensation were partially complied with (Rupees 1 Lakh was paid, instead of the recommended amount of Rupees 5 Lakhs each), but the state government ignored its recommendations relating to investigating and prosecuting the accused. Its order remained inaccessible to the survivors and witnesses for many years. This too is a familiar pattern, where Magisterial Inquires, 'independent' fact findings and Commissions of Inquiry are regularly set up, in the heat of popular protests or outrage against an atrocity, but the identities of perpetrators deliberately left vague or concealed in their reports, their findings never disclosed to the public, or when disclosed due to protests or 'leaks', never followed up by criminal investigations or prosecutions. The vociferous protest gathering and the outspoken family members seeking refuge in the Tehsil Complex, were sought to be threatened and removed from the premises by staging a 'blast' and causing a fire on the top storey of the building where they lived, a few weeks after the massacres. The immediate family, most of them young men in their late teens and early twenties, migrated to Poonch, leaving their homes and fields as a result. They lived there for almost three years attempting to rebuilt their destroyed lives.

How does one continue to make sense of one's life and existence in the face of such meaningless, and continuing violence and fear? The survivors of the Sailan Massacre, have slowly and painfully rebuilt their lives alongside the living reminders, spaces and the people who devastated their lives. They live in the same compound where the massacres took place. Abdul Ahad, whose father, mother, wife, two daughters, and two sons (aged 14, 10, 8, 7) and niece (10) were killed that night, has remarried, and has a new family. The blood soaked floor of his home in which the killings took place has been cemented over, and the bullet ridden walls rebuilt and reordered. He works in the Sheep Husbandry Department. His eyes glaze over, when he talks about that night, and his lost children

I constantly imagine what they would be doing now. My oldest daughter, Shabeen, she was thirteen or fourteen, she would be married now. She was a very bright girl, very good at her studies. Perhaps she would have a job, like you? [indicating the researcher]. She may have children of her own by now, she would be almost thirty. I would be a grandfather, rather than a father. I have two lives. Before and After. I see young men and women around, going for jobs, going to college, getting married, living their lives, and I think of my other children, the ones who are gone.

Mohammad Afzal, Abdul Ahad's younger brother works in the health department, and lives in the same house with his family. He is still recovering from his injuries caused by a mysterious hit and run 'accident', which took place when he went to record his statement before the police. A quiet and taciturn man, he speaks about his married sister Taaja Begum, rather than his own sufferings.

I was at her house [about 300 metres away] taking shelter when the massacre took place. We were looking out of her window together, watching and listening to the gun fire. We were so afraid, we could not sleep. We could not go out for fear of the soldiers being around, and killing us. We had to stayed like that, in the dark, watching for hours. She never recovered from that terror. It settled deep into her. Ever since she is mentally disturbed. Absolutely 'khaamosh' (quiet). She never laughs or smiles. She cannot carry on her daily tasks, or mange the household. She cries all the time.

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Latief, who lost his parents and four younger sisters, was then about 24, and employed in a construction company in Saudi Arabia. He was unmarried at the time, and got married in 1999, about a year after the killings. He continued to work in the Gulf, until two to three years ago. Now he has four children (three sons and a daughter) and spends most of his time with his young family, and is writing a personal memoir of his life, and the massacre that tore it apart. The youngest boy, about four years old his constant companion, refused to leave his lap during conversations with the researcher, at his home, even as the older children were asked to leave the room. He spoke of the psychological trauma, as he sat with his head held in his hands.

Those first few years were a terrible time. I became utterly despondent, uninterested in life. I would meet my friends in the street, and fail to recognise them. I would forget things that had happened just a few days, even minutes ago. I would blank out, things would turn black before my eyes. Then after a few years, I made a pilgrimage to Hajj. I found some solace, some peace of mind there. I am better now. But one can never forget such a loss. I feel their absence all the time. And we live in a constant state of terror and fear. We sleep with guns near our beds. [Pointing to a rifle leaning against the wall, next to the bed]. Our children are afraid, they ask us questions. They ask us why we are fighting the case, what will happen next. They grow afraid whenever they see the police. They ask us why we are speaking out, they don't sleep when we go to Jammu or Srinagar for the case.

Shabir, Latief's younger brother, now 35 was a high school student in Class XII when the massacre occurred. He teaches in the Primary school located next door. He was married in 2004, and has three young children. Maqsood Sheikh, Imtiyaz's brother, who lost six members of his family that night, and later his brother Imtiyaz, is also married and works as an electrician. The family members all speak bitterly with the anger and humiliation they feel at the sight of the perpetrators still roaming free, and with some sarcastic satisfaction at the fate of SP Sevak Singh, who was convicted of murdering a subordinate Inspector Ajay Gupta in a staged 'blast'. He remained in jail for over ten years, but they have heard that the Supreme Court has recently granted him bail pending an appeal.

The SPOs involved in the case, are now either Selection Grade, or Head Constables, part of the regular police force. One of them, Maqsood Ahmed Khan has even been promoted to the rank of Assistant Sub Inspector. Mohammad Rafiq Gujjar is presently posted with the 16 Rashtriya Rifles, Draba Camp a few kilometres from Sailan. Shabir said:

They have earned their promotions, ranks and stars only on the basis of the blood of innocents which they have spilt. Some of them are illiterate; they have not studied even till the Eighth class, yet they are officers today. They still roam around with the army, behaving in the way they used to. No one can say anything. They are the maiiii – baap (parents i.e over lords) of this place. They carry on with their 'zulm shulm' (injustices). People here are poor, and helpless (gareeb, muskeen). They are afraid whenever they see a uniform. There is no justice in this. But what can we do? The army and police (SOG) control our existence. This is the reality of Sailan.

J.P Singh, whose reign as the Superintendent of Police in Poonch is remembered as a time of absolute terror, with daily 'encounters', disappearances, and atrocities such as the mass killings at Sailan, and neighbouring Mora--Bicchhaai is now Deputy Inspector General (DIG) of North Kashmir. He is a highly decorated officer, having been awarded

Director General of Police's Commendation Medal in 1995 and the President's Police Medal for Gallantry in 1997 (prior to the massacres) In 1999, he earned the Police Medal for Gallantry in 1999, and in 2000, the Police Medal for Meritorious Service.

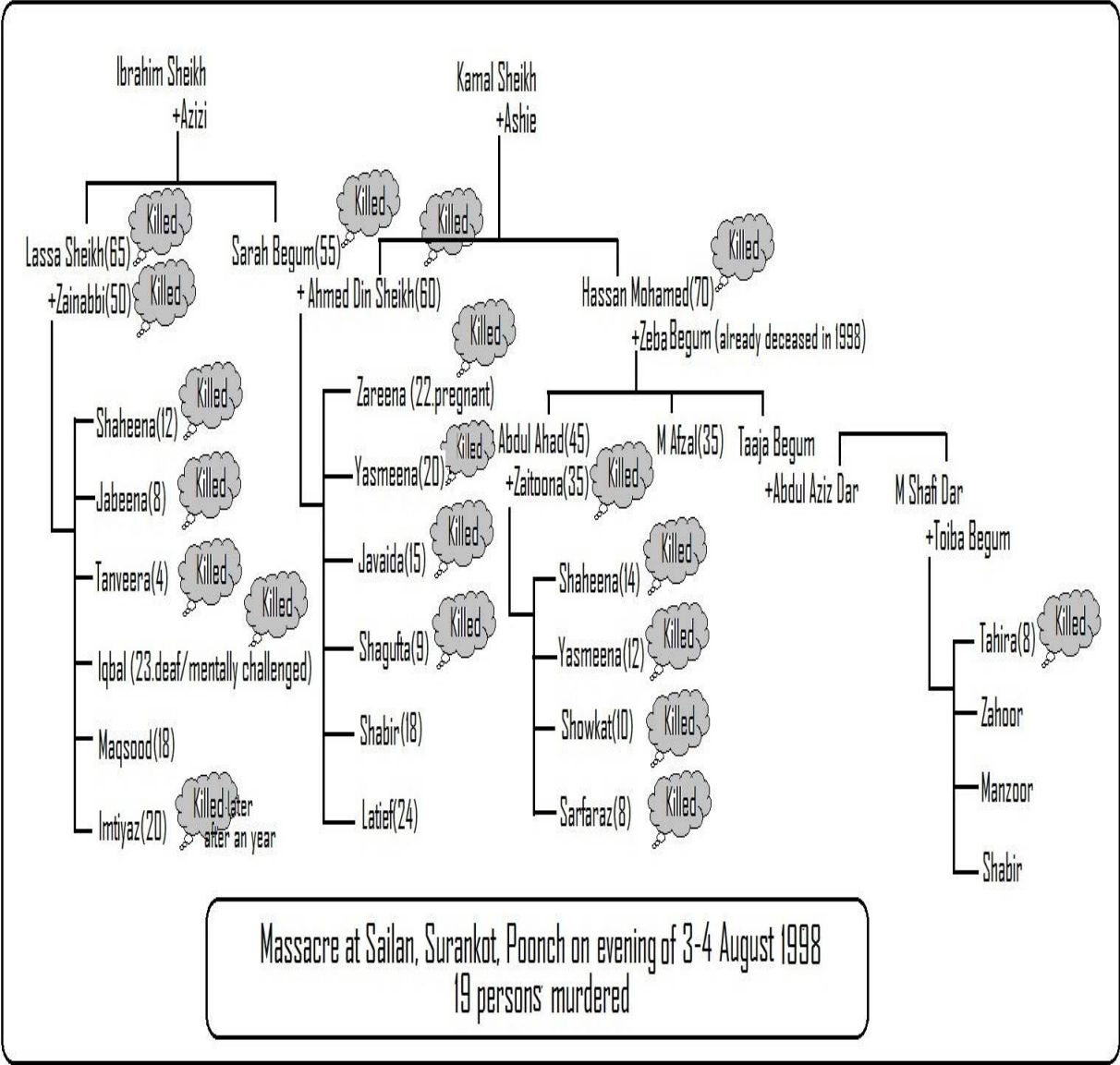
The *jungjoot* (violently aggressive) Major, who Sailan residents knew well, but only as Major 'Goora' was transferred along with his unit to the border Tehsil of Mendhar, according to local rumors. They were reportedly part of some other human rights violations there, and at the center of protests and were subject to stone throwing. Now according to rumour, Major Gaurav is a Commanding Officer in Banihal. He is reported to still be in contact with the SPOs who were so close to him in 1998, and they apparently visit him in about once a month, for favours and for giving him information. The villagers have also heard that the 9 Paratroopers, stationed at Bafliaz in 1998, were later deployed in Kargil, where many of them died as war heroes. They do not know if this is true.

The legal struggle, despite its history of delays, fabricated FIR, destroyed or misplaced evidence, lackadaisical re-investigations, and continued impunity for perpetrators, in some small part provides a way to continue with the painful business of living, without forgetting. The break-through which was made with the ordering of CBI investigations into the case, has led to a fresh round of journeys to Srinagar and Jammu to record statements, attend court dates and meet lawyers and officials. The renewed visibility has also brought a fresh round of threats, intimidation and pressures to hold their peace. But family member Mohammad Latief sees this not as a victory of the forces of oppression and silencing, but as their own moral victory, proof of the threat that truth poses to untrammelled power.

"The only aim of the perpetrators is to coerce us not to pursue the case[...] They are threatened and insecure now, because the real facts will come out through the case. They want us to give up, fall silent again. But we can neither forgive the perpetrators nor can we forget the brutal killing of our children. We are resolved to continue with the legal proceedings, until the truth is proved, and we won't allow the culprits to roam free."

The Mass Killings at Sailan

Annexure 1



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تاریخ شہادت مروجین - ۳ اگست ۱۹۹۸ بروز سوموار
مطابق ۹ ربیع الثانی ۱۴۱۹ھ بوقت رات کے ۲ بجے -



Hassan Mohammed
Zaitoona Begum
Shaheena Akhtar
Showkat Mohammed
Sarfaraz Ahmed
Tahira Parveen
Yasmeen Akhtar
Ahmed Din Sheikh
Sarah Begum
Zarina Begum

Tasmeena Akhtar
Javaida Akhtar
Shagufta Akhtar
Lassa Sheikh
Zainabbi
Mohammed Iqbal
Shaheena Kousar
Jabeena Kousar
Tanveera Kousar

On the night of 3 – 4 August 1998, 19 people, including 11 children ranging in age from about 4 years to 15 years, and 5 women (including one woman in an advanced stage of pregnancy) were shot to death at point blank range in their homes in Sailan, in the Surankote Tehsil, of the highly militarised 'border district' of Poonch in Jammu Region of Jammu and Kashmir. A total of thirteen females and six male members of three closely related families were killed by personnel of 9 Paratroopers, Indian army, and Special Police Officers, state armed locals recruited to the police and affiliated to the Army camp. The local police establishment was involved with attempted clandestine burial of the bodies, destruction of evidence and the criminal 'cover up' of the case. *The Anatomy of a Massacre* recounts the dismembered and silenced history of the Sailan Massacre through the voices of family members and eye witnesses, and local residents and the analysis of police, court and Right to Information, documents.